

Minutes of Meeting
Louisiana Cemetery Board
May 13, 2011

The regular meeting of the Louisiana Cemetery Board was held May 13, 2011, at 111 Veterans Memorial Boulevard, Heritage Plaza, Eighteenth Floor Conference Room, Metairie, Louisiana, pursuant to notice. Chairman Melancon called the meeting to order at 9:05 A.M.

Present were: Gerald W. Melancon, Chairman
Marilyn Leufroy, Vice-Chairman
Charles H. Fauchaux, Board Member
F. Anton Wilbert, Board Member
Stacey L. Patin, Board Member
Louise F. Saenz, At-Large Board Member
Lucy L. McCann, Director
Anna H. Aucoin, Assistant to the Director
Sharon C. Mize, Special Counsel to the Board
Ryan M. Seidemann, Assistant Attorney General

Absent was: Shelly M. Holloway, Secretary/Treasurer

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Also present at the meeting were Regina S. Wedig, Attorney At Law, representing Resthaven Gardens of Memory and WE-Southern Memorial Gardens, Baton Rouge, Louisiana; Debbie Holmes and Gary A. Moore, Argent Trust, Ruston, Louisiana; Gerald Wilson and Scott Woodley, WE-Southern Memorial Gardens, Baton Rouge, Louisiana; Nikki Dicapò Deville, Mark Russell, and Harry Drew, Resthaven Gardens of Memory, Baton Rouge, Louisiana; and Esther Bateman, Stewart Enterprises, New Orleans Louisiana.

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Ms. Leufroy made a motion to take the Agenda out of order to accommodate any guests in attendance. The motion was seconded by Mr. Fauchaux and unanimously approved.

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Stewart Enterprises: Lake Lawn Park, LLC d/b/a Lake Lawn Park; S.E. Cemeteries of Louisiana, LLC d/b/a Metairie Cemetery; Mt. Olivet Cemetery, St. Bernard Memorial Gardens; and St. Vincent de Paul Cemetery (“Stewart”) – On-site Examinations of Perpetual Care and Merchandise Trust Funds.

The Director reviewed the findings of the March 21-25, 2011 On-site Examination of the perpetual care trust funds, which revealed Stewart was depositing perpetual care on

receipts of burial spaces after discounts. Further, since Stewart converted trust systems (from AS 400 to HMIS) they are no longer depositing perpetual care on tombs and copings.

The Director also reviewed the findings of the On-site Examination of the merchandise trust funds.

The Director gave a brief overview of the response received by the Board, from Stewart on May 9, 2011. According to the information submitted, Stewart discounts approximately 71% of all sales made on burial spaces, and the average discount is 12.46%. Further, out of 1,454 sales of burial spaces, only two sales were fully discounted. Stewart interprets “fair market value” to represent the market value that an average consumer would pay for the property.

Regarding tombs and copings, Stewart does not believe Louisiana Law provides for a definition of “interment space” and Stewart interprets interment spaces to be the property in the cemetery where the customer will be buried, not the structure built upon the space. Stewart has agreed to deposit \$100,911.55 into the perpetual care trust funds on contracts for tombs and copings where maintenance care agreements were issued to consumers.

Ms. Bateman stated, regarding the perpetual care on the gross versus the net, they have taken the position that the law specifies that for each interment space provided without charge, that is when the deposit should not be less than 10%. Therefore, they are trusting on the net amount after discounts. Generally, they discount 80% of contracts and the discounts are reasonable, 12% on average.

Regarding tombs and copings, Ms. Bateman stated they are trusting on the price of the lot only. The contract is broken down into the price of the lot, and the price of the tomb or coping. What we were doing before, and what we are discontinuing, is issuing a maintenance care agreement to the customer when a contract is paid in full. In the maintenance care agreement we were stating we were depositing a certain amount into the perpetual care fund. We don't believe that is required, our contract does not state we are going to trust on the tombs and copings, the customer is not told we are going to trust on the tombs and copings, and the law does not say that. We are coming from the approach that we are doing what is required, which is trust on where the customer is going to be buried that is the interment space or lot. Therefore, we are going to discontinue maintenance care agreements. The deposit that Ms. McCann was referring to is on any maintenance agreements that we have already issued, and we have not trusted. We will deposit that amount, because at that point we are contractually obligated since we have told the customer we would deposit a certain amount into the perpetual care trust fund. In the future, we will no longer be doing that. We will continue to maintain the property at the same level we are currently maintaining them.

The Chairman asked if package discounts were given on the lot and the merchandise or just the lot. Ms. Bateman stated that discounts were allocated proportionately among all the items on the contract. The Chairman asked if the perpetual care trust fund generated

sufficient income to adequately maintain the cemetery. Ms. Bateman said none of the trust funds generate sufficient income to maintain the cemeteries especially in today's economy. Our standards have always been, independently of the amount of income the trust funds generate, we will maintain the properties. The Chairman asked why they would cut off the amount of money placed into trust, if the trust funds were not sufficient to maintain the cemetery. Ms. Bateman stated our approach is that no matter how much is in the trust fund we are going to maintain the cemetery and we are going to trust whatever we are regulatorily required to trust. Maintenance costs that exceed the trust income will have to come from operations. The Chairman stated that in later years you may not have that additional operating income to put toward maintenance, the trust fund is designed to provide income in the future. Ms. Bateman said because you are only required to put 10% into trust you will always have operating income. The Chairman disagreed, stating you will eventually sell out of cemetery spaces and will need that income from the trust for the maintenance of the cemetery.

The Director stated there were several things the Board needed to make a decision on today. The first is discounts, whether or not Title 8 and the Rules and Regulations of the Board allow perpetual care to be discounted proportionally to the discounts that may be given by a cemetery on the sale of a cemetery space.

The second, as it relates to Stewart Enterprises, is whether tombs and copings are considered interment/cemetery spaces and if perpetual care is due. Regarding tombs and copings the Director stated that tombs are not considered merchandise under R.S. 8:501 and they are considered the equivalent of a mausoleum crypt under R.S. 8:601. The Director stated there should not be a difference between a mausoleum crypt in a community mausoleum versus a mausoleum crypt in a private mausoleum. The definition of "cemetery space" includes a tomb. The Title issued by Stewart Enterprises refers to "right of interment in the cemetery space". The Director also referenced the definitions in Title 8 for "care" "endowed care" or "perpetual care", and "perpetual care cemetery".

Ms. Bateman asked what would happen to the lot on which that tomb or coping is placed because we will be trusting for a lot which no interments are placed, and what happens when a customer purchases the tomb or coping from a third party vendor. She stated they do not collect perpetual care on sales by third party vendors. The Director stated that many perpetual care cemeteries require perpetual care on sales by third party vendors.

Mr. Fauchaux asked if someone purchases a lot and perpetual care is placed on the lot, then three years later they purchase a coping or tomb what does the contract say. Ms. Bateman stated they use the same form of contract for the sale of the lot or a tomb or coping, but a coping is just a rail there is no perpetual care on the coping because a coping is not an interment space. Mr. Fauchaux said by definition it is a cemetery space and he does not think you can separate the two. He further stated the cemetery is obligated to maintain the lot and any improvement placed on the lot.

Mr. Seidemann stated the legislature has set forth that a tomb is a cemetery space. Ms. Mize stated the legal argument in Stewart's May 6, 2011 letter is that the cemetery interprets cemetery space to be the property in the cemetery that the customer will be buried, not the structure upon the space. The other legal argument is that R.S. 8:454.1 talks about interment space and R.S. 8:1 does not specifically define interment space, and interment space is something less than a cemetery space as defined in the statute. But Mr. Fauchaux's response is exactly right, that is not consistent with the statutory definition.

Mr. Fauchaux said you cannot separate it - a coping is a cemetery space structure, which can be of various sizes. The fact that the burial takes place in the ground portion of a coping does not mean you only have to fund the perpetual care on the ground.

After discussion, Ms. Leufroy made a motion that perpetual care is due on tombs and copings pursuant to the definition of cemetery space in R.S. 8:1(12), and R.S. 8:454.1(A) and (C). The motion was seconded by Mr. Fauchaux and unanimously approved.

The Chairman stated the next issue relates to discounts. The Director stated in recent On-site Examinations it was noted that several cemeteries, Stewart Enterprises, WE-Southern Memorial Gardens and Oak Lane Memorial Park, were providing discounts. The question before the Board is not whether a cemetery can discount the price of a cemetery space. The question is whether the perpetual care due on the cemetery space can be discounted.

Mr. Seidemann stated that the law is silent regarding whether cemeteries can offer a discount on their cemetery spaces and he advised the Board against taking a position on that issue. Mr. Seidemann then stated that, what is provided for in Title 8 is what is due to the perpetual care trust fund in perpetual care situations, which is that a minimum of 10% of the gross sales price received for any interment space sold or transferred under the representation that such interment spaces shall receive perpetual or endowed care shall be deposited into the trust fund. He went on to state that the purpose of this law is to ensure that once there is no longer income from the sale of spaces that something is there to generate funds for the cemetery to maintain itself. Mr. Seidemann noted that, as to the matter now before the Board, some cemeteries are offering discounts on their spaces and they are also doing parallel discounts on what they are charging for perpetual care for that space. Mr. Seidemann noted that such discounts on perpetual care fees appear to violate the spirit of R.S. 8:454.1, if not the law itself. He noted that the logistical problem of such a practice is that the maintenance cost for the space in the long term is not going to be discounted, thus these cemeteries are essentially underfunding their trust fund based upon these discounts. Mr. Seidemann stated that the statute and the regulations adopted pursuant to R.S. 8:454.1, concerning fair market value, should be interpreted together; that is, a minimum of ten percent on the gross sales price received is the equivalent of the price you would pay for a space if you paid full price or the undiscounted price. He noted that fair market value in the cemetery context is a unique concept, thus making the general real estate definition of fair market value inapplicable in this situation. Based upon this, Mr. Seidemann stated that the law requires that perpetual

care is due on what the undiscounted price would be for the purpose of effectuating what the legislature created this provision for, and that is to ensure the consumer that, once the income has dried up for a particular cemetery, there will be sufficient funds to maintain what they contracted for. Mr. Seidemann stated that it appears that the 10% can fluctuate based upon the undiscounted prices within the cemetery, but that it does not fluctuate with discounts on individual spaces. He then informed the Board that the law does not permit these types of discounts.

Ms. Bateman stated the statute provides for the gross sales price received, not posted, just like when you buy a car, what you see on the display is the gross price retail and what you pay is gross price received. Mr. Seidemann agreed insofar as the language of the statute, but stated that Stewart has a different interpretation of perpetual care than the interpretation based upon the undiscounted price. He stated that this difference of interpretation is a matter for the Board to determine.

The Chairman asked about the fair market value. Mr. Seidemann stated the regulation provides that a minimum of 10 percent of the gross receipts, less sales tax and interest or finance charges, if any, for the sale or conveyance of any interment space, but in no event less than 10 percent of the fair market value of each interment space conveyed, such fair market value to be determined on the bases of the current fair market value of comparable interment spaces in the same cemetery. The regulations were put in place by the Board pursuant to authority granted to them by the legislature to do so. Mr. Seidemann noted that the regulatory entity, in this case the Board, is given great discretion, as long as they stay within the bounds of the law to effectuate the law by way of regulations. Mr. Seidemann noted that the regulation falls within the scope of the law and shows that the undiscounted price is the basis for the calculation for what is due the perpetual care fund.

The Chairman stated wouldn't the fair market value be what the cemetery prices its product at on the open market. I know discounts are common on a pre-need basis, we understand that. If you want to discount for whatever reason or as a marketing tool, there is no problem, but the fair market value is what the cemetery puts the price at, what they advertise to the public. This is the fair market value; this is what we are selling at, however, we will give you a discount to come in. Ms. Mize and Mr. Seidemann agreed with this statement. Mr. Seidemann again noted that the courts, both in Louisiana and other places, have indicated that fair market value in a cemetery context is different from fair market value in a real estate context. Ms. Leufroy stated then fair market value could be whatever a particular cemetery prices their plot for. The Director stated the issue before the Board is not the discounts given by cemeteries on cemetery spaces, but whether the statutory provisions allow for the discount of the perpetual care.

The Director stated that WE-Southern Memorial Gardens, Inc., is also in attendance today and based on the On-site Examination conducted March 10-11, 2011 they are also providing some minimal discounts on cemetery spaces and the associated perpetual care on those cemetery spaces. Mr. Wilson addressed the Board and stated they have done some minimal pre-need discounts. Further, he stated that Stewart indicated they

discounted their spaces 80% of the time, in his opinion that sets their fair market value. Fair market value in his mind is what you can sell it for.

Ms. Wedig addressed the Board and said it was mentioned that if you have a price list, that is what your fair market value is, but what if your price list has both pre-need and at-need prices. Are you agreeing that the pre-need price, because it is being listed even though it is less than the at-need price, are you saying there would be two fair market values for that same space? The Chairman said no, you would use the higher of the two, because your discounted pre-need price is a sales tool to get the people to buy. At-need they have to buy at this price and that is what you determined your price to be and you base your pre-need price on your at-need price. Ms. Wedig said conceptually, if what your saying is we want to make certain there is enough money in the trust fund for the future, aren't you forgetting to recognize that the fact that if you are doing it pre-need you in fact are going to have that money for a longer period of time and it is going to grow. Again I go back to if you choose to have a different set of pricing then aren't you saying that the fair market value of this in the future is going to be this price because you are building in time. The Chairman stated the perpetual care trust does not build up funds because you are allowed to withdraw income annually, except for capital gains.

The Director stated she understood all of the arguments but the question is whether or not the statute allows for the discount of perpetual care. Mr. Wedig stated the statute doesn't talk about discounting. In her opinion, the regulation says you have to trust 10% of the contract price, and it does not say you have to trust 10% of the price list. It says for the particular space whatever I sell it at, then my contract price is what I have to trust, but at a minimum, it has to be 10% of the fair market value. Therefore, the question is what is fair market value, not so much as what is the price but what is the fair market value. There is nothing in the regulation as it stands right now to help the Board or the cemetery authority to figure out what does fair market value mean. Is fair market value going to mean whatever your price list is, and again if it is, and you have a price list that says this is my pre-need price and this is my at-need prices then, which are you are going to require your cemetery authority to use?

Ms. Mize pointed out that the statute does not talk about cash received, it talks about gross, not net, sales price received and then the regulation fleshes that out, so I would disagree with Ms. Wedig's reading of the statute. I also want to point out to the Board that the other cemetery on the Agenda for today regarding this issue is Oak Lane Memorial Park, who appeared at the last meeting and their counsel Mr. George spoke at length. They are appearing today by the letter that Mr. George submitted, which is in topic number six. Essentially, it makes the same arguments they made when they appeared before the Board at the last meeting, which is similar to the comments heard this morning. According to Oak Lane, the gross sales price received and the fair market value is the discounted price. They obtained an appraisal, which takes the discounted prices and divides it by the number of lots sold and make the contention that is the fair market value. As Mr. Seidemann pointed out that case law regarding fair market value in the cemetery context, is a different concept than in the residential real estate, commercial real estate, or car sales context.

There was a general discussion regarding administrative and marketing issues, pre-construction discounts, the statute, rules and the past enforcement actions of the Board. The Director stated that whatever the decision of the Board today she would recommend the Board send a policy statement to all perpetual care cemeteries.

After discussion, Mr. Fauchaux made a motion that the Board continue to interpret and enforce the perpetual care law based on gross sales price, prior to discounts; and further within 90 days of this meeting, the Board will send a policy statement to all perpetual care cemeteries, which clearly and in precise terms outlines the position of the Board, as to what is the basis for the minimum 10% perpetual care deposits due on all sales. The motion was seconded by Ms. Saenz and unanimously approved.

The Chairman thanked everyone for his or her time and participation regarding this matter.

The Director asked Ms. Bateman if there were any other issues in the On-site Examination, which needed attention by the Board. Mr. Bateman indicated there were none.

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WE-Southern Memorial Gardens, Inc. d/b/a Southern Memorial Gardens, Baton Rouge, LA – On-site Examination of Perpetual Care Trust Fund. The Director referred the Board to topic eight in their meeting books, which contained the response received from Southern Memorial Gardens on May 11, 2011, addressing all the discrepancies outlined in the On-site Examination with the exception of one issue which they are requesting additional time to remedy. The Director asked Mr. Woodley if there were any other issue in the On-site Examination, which needed attention by the Board. Mr. Woodley indicated there were none.

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Legacy Funeral Holdings of Louisiana, LLC d/b/a Resthaven Gardens of Memory, Baton Rouge, LA – Request for approval to withdraw excess funds from Merchandise Trust Fund. The Director stated at the November 5, 2010 meeting, the Board requested she work with the cemetery on confirming and documenting any over funding within the merchandise trust fund of Resthaven Gardens of Memory. The Director provided a brief history of the trust fund stating that in 1996 Loewen established the merchandise trust fund when they purchased Resthaven and they were using the Osiris Trust System. In 2002, Alderwoods converted from Osiris to HMIS. In 2003, Alderwoods claimed a merchandise trust fund was over funded by approximately \$389,261.00. However, there were inconsistencies between Alderwoods' converted trust data and the Board's records and we were unable to reconcile the issue before the property was sold to SCI, which converted the trust data to their own version HMIS system. When Legacy purchased the cemetery, they converted the trust data yet again to their own version of HMIS. The

Director stated that she had met with Resthaven on December 16, 2010, and requested they provide the Board with their internal audit of the trust fund at the time of purchase, including the methodology on verification of data and determination of alleged over funding. As of this date, the information requested has not been provided.

Ms. Wedig stated, now that Legacy owns the cemetery, they have developed all of these systems for double-checking everything. One of the things they have now been able to do is go back through and verify here are the contracts, the price, and the income, to show that the trust is fully funded, and that there is this excess. At this time, I do not think we can establish where the excess derived from, and I am not sure that we necessarily would have to do that under the statute. What the statute says is as long as we can establish this is the contracts; this is the principal and interest to show that they are funded. The next step is how are we going to be able to demonstrate that the contract has been fulfilled, whether it is through cancellation, delivery or whatever, if those records are not available to my client because this stems from funds that have been deposited over the years who knows when and not withdrawn for whatever reasons. Today, I have with me the representatives of Legacy to advise a little more as to what records they have been able to compile, what the methodology is, and to answer any questions the Board may have. We need to figure out what the procedure will be for withdrawing the funds if the Board deems we have sufficient information and that is appropriate.

Harry Drew, comptroller for Resthaven, addressed the Board and advised the staff at Resthaven has gone through and gotten the records organized. What we have been able to do is take the listing received from SCI's HMIS system, confirm that the listing is accurate, and that it is a good listing of the contracts in the system. We have gone through the files to look for files that are not trusted, which of course is the concern. We have a fair amount of confidence that the trust is whole. The challenge that we have, is the specific amount of over funding that we are showing was listed by SCI as an unallocated amount at the time of transfer. Knowing how their conversions work, there is not a way to go back and see when they withdrew funds, which old contracts were delivered and not withdrawn.

The Director asked if the over funding or excess you perceive to be in the trust is strictly principal. Mr. Drew said from the data that was given to us, yes that is true. We were given a \$585,952 figure that was listed as an over funding / excess. The Director asked if they were sure, the entire amount was principal and not income that should be allocated to the contracts in trust. Excluding that amount, Mr. Drew stated the fund has approximately \$3,055,000 in principal and \$607,000 in income. Since 2007, there has been approximately \$13,000 of earning allocated to that excess amount. The Director asked if the cemetery was continuing to allocate income to that excess funding. Mr. Drew stated at this point yes, but that income can be easily reallocated to the contracts in trust. The Director asked if Resthaven had any data for the Board today. Mr. Drew indicated he would e-mail all the data to the Board. There was a general discussion regarding the missing data and the efforts made to retrieve the data and document the excess funds.

Regarding withdrawals, Ms. Mize stated R.S 8:503 was very specific. Further, she stated after verification of all of the numbers, at some point we assume Ms. Wedig is going to send the Board a proposal and at that time, the Board will consider their proposal. Ms. Wedig stated it was a work in progress and she would be in contact with Ms. Mize and the Director to provide whatever data they had available.

The Chairman thanked Resthaven for their attendance and participation.

Ms. Leufroy made a motion to return to the regular order of the Agenda. The motion was seconded by Mr. Wilbert and unanimously approved.

Since copies of the Minutes of Meeting held November 5, 2010, had been previously mailed to each Board Member, the Chairman asked if there was any discussion and/or amendments. Ms. Leufroy made a motion to approve the Minutes of the November 5, 2010 meeting as presented. The motion was seconded by Ms. Saenz and unanimously approved.

Report of Officers

The Director reviewed the Statement of Operations for year ending December 31, 2010; Cash & Investments as of December 31, 2010; the Statement of Operations January through April 2011; Cash & Investments as of April 30, 2011; the Budget vs. Actual January through April 2011. After review and discussion Ms. Leufroy made a motion to accept the financial statement as presented. The motion was seconded by Mr. Wilbert and unanimously approved.

The Director reviewed the 2011 Proposed Budget Amendment. After review and discussion, Ms. Leufroy made a motion to accept the 2011 Proposed Budget Amendment as presented. The motion was seconded by Ms. Patin and unanimously approved.

The Director presented to the Board for review and approval the Louisiana Attestation Questionnaire needed for the Boards annual audit. Ms. Leufroy made a motion to approve the Louisiana Attestation Questionnaire as presented. The motion was seconded by Mr. Fauchaux and unanimously approved.

Report of Director

Sand Hill Cemetery Association, Inc. d/b/a Sand Hill Cemetery, Ponchatoula, LA – Pending Application for Certificate of Authority changing from an Exempt status to a Non-Exempt status. The Director advised the Application for Certificate of Authority is incomplete and reviewed the outstanding documentation needed to complete the application. The Director reminded the Board the cemetery is involved in a civil dispute which is pending in court.

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Woodlawn Mausoleums, Inc. d/b/a Woodlawn Mausoleum, Ferriday, LA – Pending Application for Certificate of Authority for the change in ownership. The Director advised the Application for Certificate of Authority is incomplete and reviewed the outstanding documentation needed to complete the application.

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Garden of Memories of Alexandria, Inc. d/b/a Garden of Memories of Alexandria, Alexandria, LA – Pending Application for Certificate of Authority for the change in ownership. The Director advised the Application for Certificate of Authority is incomplete and reviewed the outstanding documentation needed to complete the application.

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St. John the Baptist Church d/b/a St. John the Baptist Cemetery, Crowley, LA - Pending Application for Certificate of Authority changing from an Exempt status to a Non-Exempt status. The Director advised the Application for Certificate of Authority is incomplete and reviewed the outstanding documentation needed to complete the application.

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Alfortish Cemetery Management, Inc. d/b/a False River Memorial Park, New Roads, LA - Pending Application for Certificate of Authority for the change in ownership. The Director advised the Application for Certificate of Authority is incomplete and reviewed the outstanding documentation needed to complete the application.

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Greater Philadelphia Baptist Church, Inc. d/b/a Greater Philadelphia Cemetery, Slaughter, LA - Pending Application for Certificate of Authority changing from an Exempt status to a Non-Exempt status. The Director advised the Application for Certificate of Authority is substantially complete and has been forwarded to Special Counsel to the Board, Ms. Mize, for review and approval.

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Broussard Cemetery Annex, Inc. d/b/a Broussard Cemetery Annex, New Iberia, LA – Pending Application for Certificate of Authority for a change in ownership. The Director advised the Application for Certificate of Authority is incomplete and reviewed the outstanding documentation needed to complete the application.

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Christensen Properties, L.L.C. d/b/a DeQuincy Memorial Park, DeQuincy, LA – Pending Application for Certificate of Authority for a change in ownership. The Director advised the Application for Certificate of Authority is incomplete and reviewed the outstanding documentation needed to complete the application.

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Jigger Gardens of Memories Cemetery Corporation d/b/a Jigger Garden of Memories, Winnsboro, LA – Pending Application for Certificate of Authority for the establishment of a new cemetery. The Director advised the Application for Certificate of Authority is incomplete and reviewed the outstanding documentation needed to complete the application.

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Pleasant Valley Missionary Baptist Church d/b/a Pleasant Valley Missionary Baptist Church Cemetery, Loranger, LA - Pending Application for Certificate of Authority changing from an Exempt status to a Non-Exempt status. The Director advised the Application for Certificate of Authority is incomplete and reviewed the outstanding documentation needed to complete the application.

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St. Peter Baptist Church No. II of New Roads, Louisiana, Inc. d/b/a Memorial Gardens Cemetery, New Roads, LA - Pending Application for Certificate of Authority changing from an Exempt status to a Non-Exempt status. The Director advised the Application for Certificate of Authority is incomplete and reviewed the outstanding documentation needed to complete the application.

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The Congregation of St. Charles Borromeo Catholic Church, Diocese of Lake Charles, Louisiana d/b/a Lacassine Catholic Cemetery, Lacassine, LA – Pending Application for Certificate of Authority changing from an Exempt status to a Non-Exempt status. The Director advised the Application for Certificate of Authority is substantially complete

and has been forwarded to Special Counsel to the Board, Ms. Mize, for review and approval.

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S.E. Cemeteries of Louisiana, LLC d/b/a Metairie Cemetery, New Orleans, LA – Pending Application for Certificate of Authority changing corporate ownership and structure. The Director advised the Application for Certificate of Authority is substantially complete and has been forwarded to Special Counsel to the Board, Ms. Mize, for review and approval.

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S.E. Cemeteries of Louisiana, LLC d/b/a Mt. Olivet Cemetery, New Orleans, LA – Pending Application for Certificate of Authority changing corporate ownership and structure. The Director advised the Application for Certificate of Authority is substantially complete and has been forwarded to Special Counsel to the Board, Ms. Mize, for review and approval.

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S.E. Cemeteries of Louisiana, LLC d/b/a St. Bernard Memorial Gardens, Chalmette, LA – Pending Application for Certificate of Authority changing corporate ownership and structure. The Director advised the Application for Certificate of Authority is substantially complete and has been forwarded to Special Counsel to the Board, Ms. Mize, for review and approval.

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S.E. Cemeteries of Louisiana, LLC d/b/a St. Vincent de Paul Cemetery, New Orleans, LA – Pending Application for Certificate of Authority changing corporate ownership and structure. The Director advised the Application for Certificate of Authority is substantially complete and has been forwarded to Special Counsel to the Board, Ms. Mize, for review and approval.

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Serenity Memorial, Inc. d/b/a Serenity Memorial Park, Opelousas, LA – Pending Application for Certificate of Authority for the establishment of a new cemetery. The Director advised the Application for Certificate of Authority is substantially complete and has been forwarded to Special Counsel to the Board, Ms. Mize, for review and approval.

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The Director reviewed the requests for a waiver of late fees from the following: Lawrence Serenity Sanctum, Inc. d/b/a Lawrence Serenity Sanctum, Natchitoches, LA; Congregation B'Nai Israel of Baton Rouge d/b/a Jewish Cemetery, Baton Rouge, LA; St. Benedict the Moor Roman Catholic Church d/b/a St. Benedict the Moor Cemetery, Napoleonville, LA; St. Augustine Roman Catholic Church d/b/a St. Augustine Cemetery, Klotzville, LA. After discussion and review of the information presented, Mr. Wilbert made a motion to grant the waiver of the late fees for the above captioned cemeteries. The motion was seconded by Mr. Fauchaux and unanimously approved.

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Arcola Roseland Cemetery Association d/b/a Arcola Roseland Cemetery, Roseland, LA – 2010 & 2011 Renewal. The Director advised the Certificate of Authority for Arcola Roseland Cemetery expired December 31, 2009, and has not been renewed. Further, correspondence was sent requesting they appear at today's meeting.

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Dennis Flynn, Inc. d/b/a Parklawn Memorial Gardens, Hammond, LA – 2011 Renewal. The Director advised the cemetery had recently renewed its Certificate of Authority.

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Myrtle Memorial Cemetery, Inc. d/b/a Myrtle Memorial Cemetery, Winnsboro, LA – 2011 Renewal. The Director advised the cemetery had recently renewed its Certificate of Authority.

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Gilbert Memorial Park, Baton Rouge, LA – Operating without a license. Mr. Seidemann gave a brief summary of the Attorney General's ongoing investigation in this matter.

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Alfortish Cemetery Management, Inc. d/b/a False River Memorial Park, New Roads, LA – Status Report regarding sales of pre-need merchandise and services by prior owner. The Director stated at the November 5, 2010 meeting the Board determined False River Memorial Park must bring all pre-need merchandise and services into compliance within ninety (90) days or an Administrative Hearing would be called. The Director also reviewed the findings of the On-site Examination conducted in January and February 2011, which revealed the following: Sixty-seven (67) vaults should be in storage to cover the pre-need liabilities; at the time of the inspection, only four (4) vaults were in storage at the cemetery; all sales at False River Memorial Park are done through Alfortish Enterprises, LLC a licensed cemetery Management Organization, and there are no segregated accounting records for sales related to False River Memorial Park; and the Application for Certificate of Authority for the change in ownership of the cemetery in February 2009 is still pending.

On February 29, 2011, the cemetery ordered 20 vaults and on April 7, 2011, the cemetery placed an additional order for 40 vaults. The Director stated she has verified, with the vault company, the cemetery has paid in full for 40 vaults, and the vault company has delivered 40 vaults to the cemetery. The delivery and payment of the remaining 20 vaults is pending.

After review and discussion, Ms. Leufroy made a motion to allow False River Memorial Park until September 1, 2011, to provide written confirmation of compliance with all exceptions and violations noted in the On-site Examination or an Administrative Hearing will be called. The motion was seconded by Ms. Patin and unanimously approved.

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At this time there was a discussion regarding the November meeting dates. The Director advised Mr. Seidemann would be out of the country on the dates of the November meeting. After discussion Ms. Leufroy made a motion to move the November meeting to October 20, 2011, if necessary, and October 21, 2011, subject to availability of the meeting room. The motion was seconded by Ms. Saenz and unanimously approved.

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Dennis Flynn, Inc. d/b/a Parklawn Memorial Gardens, Hammond, LA – Status Report regarding maintenance issues and consumer complaint. The Director stated the cemetery has recently addressed the maintenance issues and she will continue to monitor the cemetery for compliance.

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Rose Memorial Park Cemetery, Inc. d/b/a Rose Memorial Park, Hammond, LA – Status Report regarding On-site Examination of Perpetual Care Trust Funds. The Director reported the required legal documentation had been received to merge the two perpetual care trust funds and place the surviving trust with an institutional trustee.

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Woodlawn Park Holdings, Inc. d/b/a Woodlawn Park Memorial Cemetery & Mausoleum, Bridge City, LA – Status Report regarding On-site Examination of Perpetual Care and Merchandise Trust Funds. The Director stated at the November 5, 2010 meeting the Board determined all violations noted in the March 9, 2010 On-site Examination must be brought current ninety (90) days prior to this meeting or a representative of Woodlawn Park Memorial Cemetery & Mausoleum attendance would be required at today's meeting.

The Director advised in March 2011, the Board received information indicating the cemetery had began construction on two new mausoleums. After contacting the

cemetery it was determined they began a pre-construction sales program in January 2011, and the cemetery had not filed the required Application for Pre-Construction Sales Project. Construction of the mausoleums is currently on hold while the cemetery secures the necessary financing to move forward with the project. The Director reviewed information recently received from Woodlawn Park Memorial Park Cemetery & Mausoleum addressing the violations found in the On-site Examination, and pre-construction sales program. The Director advised she would continue to monitor the cemetery.

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Alexandria Garden of Memories, Inc. d/b/a Alexandria Garden of Memories, Alexandria, LA – Status Report regarding On-site Examination of Perpetual Care and Merchandise Trust Funds. The Director stated, in accordance with the Order issued at the Administrative Hearing on May 12, 2011, she would work with the cemetery to verify the information provided by the cemetery.

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Oak Lane Memorial Park, LLC d/b/a Oak Lane Memorial Park, Prairieville, LA – Status Report regarding On-site Examination of Perpetual Care Trust Fund. Ms. Mize stated at the November 5, 2010 meeting the Board accepted Mr. George's proposal to work with the Director to sort out the different promotions, contracts, and incremental trusting issues, and attempt to reach a resolution. Ms. Mize advised she and the Director met with Oak Lane Memorial Park in January and essentially Mr. George repeated the arguments made at the November 5, 2011 meeting. They submitted the package under topic #6, a copy of which was before each Board Member, for consideration today. Ms. Mize reviewed additional information received via e-mail from Mr. George on May 12, 2011.

The Director stated one of the conditions placed on the issuance of the license of Oak Lane Memorial Park was that an On-site Examination be conducted yearly. Further, the Director stated the 2010 On-site Examination covered the sales through May 31, 2010, and the next On-site Examination covering sales from June 1, 2010 through May 31, 2011, would be scheduled in June or July 2011.

After discussion, Mr. Wilbert made a motion to accept the findings of the 2010 On-site Examination of Oak Lane Memorial Park covering the sales through May 31, 2010. The motion was seconded by Ms. Leufroy and unanimously approved.

Ms. Leufroy made a motion that the decision rendered by the Board earlier today that perpetual care is due on the gross sales price, prior to discounts applies in this matter since the 2010 On-site Examination revealed the cemetery was calculating and depositing perpetual care on the net price of cemetery spaces after discounts. The motion was seconded by Mr. Wilbert and unanimously approved.

After review of the law and discussion, Mr. Fauchaux made a motion that the Attorney General and the Board issue a Cease and Desist Order to Oak Lane Memorial Park demanding the cemetery discontinue the practice of discounting perpetual care, and bring the perpetual care trust fund of Oak Lane Memorial Park current pursuant to law. The motion was seconded by Ms. Patin and unanimously approved.

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Arcola Roseland Cemetery Association d/b/a Arcola Roseland Cemetery, Roseland, LA – Operating without a license. The Director stated, in accordance with the Board’s directive at the November 5, 2010 meeting, on January 21, 2011 an On-site Examination was conducted covering the years ending December 31, 2007, December 31, 2008, December 31, 2009, and December 31, 2010. The On-site Examination found the cemetery had not made a deposit to its perpetual care trust fund since November 8, 2007; the cemetery owed \$2,680.00 on 2007, 2008, 2009 and 2010 sales of burial spaces; the cemetery was delinquent in filing its 2007, 2008 and 2009 Report of Perpetual Care Endowed Care Trust Fund Forms; the cemetery could not produce current interment records or demonstrate they were protected from destruction by fire; the corporation is not in good standing with the Secretary of State; and the cemetery is currently operating without a license. Further, as of this date, no written response has been received from Arcola Roseland Cemetery Association regarding the findings of the On-site Examination. Correspondence was sent requesting Arcola Roseland Cemetery Association appear at today’s meeting, but the cemetery did not respond or appear.

After discussion and review of the law, Ms. Leufroy made a motion the Attorney General and the Board issue a Cease and Desist Order demanding the cemetery cease all operations until properly licensed and all violations are corrected. The motion was seconded by Ms. Patin and unanimously approved.

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Hope Haven Garden of Memory, Inc., d/b/a Hope Haven Garden of Memories Gonzales, Gonzales, LA – On-site Examination of Perpetual Care Trust Fund. The Director reported a recent On-site Examination revealed that perpetual care deposits were due on a pre-construction project. Further, the Director reported all deposits have been made and the file is closed.

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Restlawn Park Cemetery, Inc. d/b/a Restlawn Park Cemetery, Avondale, LA – Request for approval to withdraw delivered contracts from Merchandise Trust Fund. The Director reviewed the request received from Restlawn Park Cemetery to withdraw the principal on deposit for delivered contracts. Also provided to the Board were copies of the Judgment and Amended Judgment issued in the Restlawn Park Cemetery, Inc. versus Louisiana Cemetery Board matter. For the benefit of the Board Members who were not familiar with this issue, Ms. Mize gave a brief summary of the facts and events in this matter.

There was a discussion regarding the cemetery's request to only withdraw the principal, and not allocate the income pursuant to law. After discussion, Mr. Fauchaux made a motion to advise Restlawn Park Cemetery to follow the provision of R.S. 8:503 regarding withdrawals from the trust. The motion was seconded by Ms. Leufroy and unanimously approved.

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The Director reviewed the Applications for Pre-Construction Sales Projects received since the last meeting, copies of which were before each Board Member.

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Ratification of Certificates of Authority issued

The Chairman asked for a motion to ratify the licenses issued since the last Board Meeting. Ms. Leufroy made a motion to ratify the 2010 Cemetery Management Organization (New) #CMO-10-06; 2011 Non-Exempt (New/Transfers) #11-489, #11-496, #11-503; 2011 Non-Exempt (Renewals) #11-001 - #11-488, #11-490 - #11-495, #11-497 - #11-502, 11-504; 2011 Cemetery Sales Organizations (Renewals) #CSO-11-01 - #CSO-11-07; 2011 Cemetery Management Organizations (Renewals) #CMO-11-01 - #CMO-11-06 and Exempts (New) #1276E - #1289E. The motion was seconded by Mr. Wilbert and unanimously approved.

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On-site Examinations performed since last Board Meeting

The Director stated (21) Perpetual Care and (7) Merchandise examinations since the last Board Meeting.

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Tri-State Cemetery Conference, August 7-9, 2011, Biloxi, Mississippi; and North American Death Care Regulators Association (DCRA) Conference – August 7-9, 201, New York, New York. After discussion, Mr. Wilbert made a motion to approve travel for the Director to attend the DCRA conference, pending no further directive from the state that would prohibit out of state travel. The motion was seconded by Ms. Patin and unanimously approved.

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Approval of changes to Trust Report Forms and Applications. The Director advised that the office was still working on the revisions, and the amended forms and applications would be placed on the Agenda for review and approval at the next meeting.

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Status Report – 2011 Legislative Session. The Director reviewed the bills affecting Title 8 in the 2011 1st Extraordinary Session and the 2011 Regular Session, as well as the status of each bill.

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Old Business

Forest Park East Associates, Inc. d/b/a Forest Park Cemetery, Shreveport, LA & Forest Park West Associates, Inc. d/b/a Forest Park West Cemetery, Shreveport, LA – Status Report regarding Consent Agreement and maintenance issues.

Regarding old business the Director stated at the November 5, 2010 meeting the Board accepted the written proposal by Mr. Lomison to pay the delinquent deposits related to the deposit reconciliation on the perpetual care and merchandise trust funds no later than January 17, 2011. The Director reported all deposits due the perpetual care and merchandise trust funds of Forest Park Cemetery (FPE) and Forest Park West Cemetery (FPW) have been made.

The Director also provided the latest quarterly report regarding the maintenance issues at FPE and FPW. According to information provided the estimated cost of repairs related to the drainage issues at FPE is approximately \$700,000. The Director stated FPE was working on a proposal to make the necessary repairs in several stages. Further, the repairs to the Chapel of Peace Mausoleum in FPW is scheduled for May 2011.

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Attorney General’s Opinion request for review of Opinion #08-0135 since passage of Act 707, Louisiana Historic Cemetery Preservation Act. The Director advised this request is still pending.

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New Business

Public Comment

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Executive Session

(None)

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Since there was no further business, Ms. Leufroy made a motion to adjourn at 3:25 P.M. The motion was seconded by Ms. Patin and unanimously approved.

Lucy L. McCann, Director

Attested To:

Gerald W. Melancon, Chairman