

Minutes of Meeting
Louisiana Cemetery Board
May 10, 2019

The regular meeting of the Louisiana Cemetery Board was held May 10, 2019, at 3445 North Causeway Boulevard, Suite 509, Metairie, Louisiana, pursuant to notice. Chairman Melancon called the meeting to order at 9:00 A.M.

Present were: Gerald W. Melancon, Chairman
Marilyn Leufroy, Vice-Chairman
Shelly M. Holloway, Secretary/Treasurer
Stacey L. Patin, Board Member
F. Anton Wilbert, Board Member
Richard C. Briede, Board Member
Lucy L. McCann, Director
Jerry W. Sullivan, Special Counsel to the Board
Ryan M. Seidemann, Assistant Attorney General

Absent was: Rev. Shelton C. Dixon, At-Large Board Member

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Mark Milton, Argent Trust Company, New Orleans, Louisiana; Debbie Holmes, Argent Trust Company, Ruston, Louisiana; Jimmy Patin, Greenwood Memorial Gardens, Pineville, Louisiana; Elizabeth M. Kmiec, ClearPoint Federal Bank & Trust, Batesville, IN; Esther Bateman, Service Corporation International ("SCI"), New Orleans, LA; and Huey Campbell, Market Director, Lake Lawn Park, L.L.C., New Orleans, LA.

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Public Comment

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Ms. Leufroy made a motion to take the agenda out of order to accommodate any guest that were in attendance. The motion was seconded by Mr. Briede and unanimously approved.

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New Business

SCI and ClearPoint Federal Bank and Trust ("ClearPoint") – Presentation on Total Return Unitrust Perpetual Care Distribution Method ("Total Return").

Copies of the presentation were provided to the Board Members and staff and are part of the meeting record.

Ms. Kmiec with ClearPoint and Ms. Bateman with SCI addressed the Board and reviewed the presentation package which included background information regarding the Total Return distribution method and copies of laws from states that have already passed Total Return regulations. The Total Return distribution method is for perpetual care trust funds only and is currently offered as an option in thirteen states. This method focuses on capturing growth and not just income production. In order to support the Total Return distribution method a balanced modified investment strategy is used which is typically 60% equities and 40% fixed income portfolio versus an income investment strategy which is typically 20% equities and 80% fixed income portfolio. Distributions under the Total Return method are based on a percentage (3-5%) of the market value of trust assets. The thirteen states that currently allow the Total Return method have various protections built into their regulations, including but not limited to, using a rolling average for market value of the trust assets; a floor which the trust assets cannot fall below; a corporate trustee requirement, and caps on investment advisor and trustee fees.

After review and discussion, the Board requested additional information and historical data on trust funds in states that allow the Total Return distribution method, including information on whether or not the growth in trust funds using this method is keeping pace with inflation.

The Board thanked Ms. Kmiec and Ms. Bateman for providing information and answering questions regarding the Total Return distribution method.

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

Since copies of the Minutes had been previously disseminated to each Board Member, the Chairman asked if there was any discussion or amendments. Ms. Holloway requested a correction of a typographical error on page one of the minutes. Mr. Briede made a motion to approve the November 2, 2018 Board Meeting Minutes as amended. The motion was seconded by Mr. Wilbert and unanimously approved.

Report of Officers

The Director reviewed the Statement of Operations for year ending December 31, 2018; the Cash & Investments as of December 31, 2018; the Statement of Operations January through April 2019; Cash & Investments as of April 30, 2019; and the Budget vs. Actual January through April 2019. After review and discussion Ms. Patin made a motion to accept the financial statements as presented. The motion was seconded by Mr. Briede and unanimously approved.

Report of Director

The Director reported on matters being handled by staff and not requiring action by the Board at this time.

The Board Members reviewed their calendars and selected Thursday, September 12, 2019 and Friday, September 13, 2019 as available dates for any Administrative Hearing(s) that may be scheduled prior to the next regular meeting.

Approval of Applications for Pre-Construction Sales Projects

The Director reviewed the Applications for Pre-Construction Sales Projects received by the Board since the last Board meeting. After review and discussion, Ms. Leufroy made a motion to approve the Applications for Pre-Construction Sales Projects received since the last Board meeting. The motion was seconded by Ms. Holloway and unanimously approved.

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 2018 Non-Exempt (New/Transfers) #18-534; 2019 Non-Exempt (New/Transfers) #19-001, #19-396, #19-513, #19-517, #19-528, #19-529, #19-536; 2019 Non-Exempt (Renewals) #19-002 - #19-395, #19-397 - #19-512, #19-514 - #19-516, #19-518 - #19-527, #19-530 - #19-535; 2019 Cemetery Sales Organizations (Renewals) #CSO-19-01 - #CSO-19-07; 2019 Cemetery Management Organizations (Renewals) #CMO-19-01 - #CMO-19-05; and Exempts (New) #1449E - #1463E. The motion was seconded by Ms. Holloway and unanimously approved.

The Director reviewed the April 2019 Summary Report and advised the report had been accepted by the Examination & Inspection Committee, Mr. Wilbert and Ex Officio Committee Member, Mr. Melancon. A response has not been received from Rev. Dixon.

The Director also provided the Board with a summary of the perpetual care and merchandise trust fund balances of reconciled reports as of April 2019.

After review and discussion, Ms. Holloway made a motion to ratify the April 2019 Summary Report as presented. The motion was seconded by Mr. Wilbert and unanimously approved.

Old Business

Assistant Attorney General, Mr. Seidemann, provided a status report and answered questions on the cemetery disruptions caused by the 2016 flooding. Mr. Seidemann advised that out of seventy-four cemeteries affected by the flooding repairs are complete in all but two cemeteries.

New Business (Continued)

Legal Contract – Leefe, Gibbs, Sullivan, & Dupre', L.L.C.

The Director reported the legal contract for the Special Counsel to the Board, Jerry W. Sullivan, will expire December 31, 2019. The current contract has a one-year extension option, which Mr. Sullivan has agreed to at the current rate.

After discussion Mr. Briede made a motion to authorize the Director to seek approval of the one-year extension option for the legal contract between the Board and Leefe, Gibbs, Sullivan, & Dupre', L.L.C. The motion was seconded by Ms. Patin and unanimously approved.

North American Death Care Regulators Association (DCRA) Conference – August 13-16, 2019, Des Moines, Iowa; and Tri-State Cemetery Conference – August 18-21, 2019, Point Clear, Alabama

After discussion, Ms. Leufroy made a motion to approve registration and travel for the Director to attend the Tri-state Cemetery Conference; and the registration, air fare, and hotel rooms for the Director, Compliance Investigator, Joni C. Thompson, and the Assistant Attorney General, Ryan M. Seidemann, to attend the DCRA Conference in Des Moines, Iowa. The motion was seconded by Mr. Briede and unanimously approved.

The Director reviewed several bills pending in the 2019 Regular Legislative Session, affecting Title 8 as well as bills that may affect the administrative function of the Board including, but not limited to, HB 102, HB 503, SB 29, and SB 187.

Regarding HB 102, there was a discussion regarding whether the amendments proposed to La. R.S. 8:655 relative to authorization to direct the disposition of human remains also need to be incorporated into La. R.S. 8:659 relative to authorization to direct the disinterment of human remains. Chairman Melancon will contact the author of HB 102, Representative Sam Jones, to discuss this matter.

Regarding HB 503, there was a discussion regarding how the proposed law would affect the Board's licensing process. After discussion, it was recommended that we seek an amendment to include the Board as one of the licensing agencies with an exception to the proposed law.

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The meeting adjourned for lunch.

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Request for waiver of late fees on 2019 Renewal Applications for Certificate of Authority: Holy Rosary Roman Catholic Church d/b/a Holy Rosary Roman Catholic Cemetery & Mausoleum, St. Amant, LA; and Tarver Family Private Burial Ground d/b/a Tarver Family Private Burial Ground, Franklinton, LA.

After review of the information presented, Ms. Holloway made a motion to grant the waivers. The motion was seconded by Ms. Patin and unanimously approved.

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Recommended amendments and additions to Board Policies and Procedures: Section 6(A) – Administrative Hearings.

Special Counsel to the Board, Mr. Sullivan, and the Director reviewed the proposed addition to the Board's Policies and Procedures, advising the policy is needed in order to dispose of disciplinary actions in a uniform, orderly, and timely manner and to protect the due process rights of all individuals.

After review and discussion, Ms. Leufroy made a motion to approve and adopt the Section 6(A): Administrative Hearings effective immediately. The motion was seconded by Ms. Holloway and unanimously approved.

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Informal Proceeding Docket No. 2018-037-C – Re: Lake Lawn Park, LLC d/b/a Lake Lawn Park, New Orleans, LA

The Director and Mr. Seidemann reviewed the details of the stipulated facts and violation(s), as well as the proposed resolution outlined by the Consent Agreement, a copy of which was before each Board Member.

The Director and Mr. Seidemann answered questions by the Board regarding the stipulated facts, violation(s), and the recommended resolution.

After discussion, Ms. Leufroy made a motion to ratify the Consent Agreement with Lake Lawn Park, LLC d/b/a Lake Lawn Park as presented. The motion was seconded by Mr. Wilbert and carried. Mr. Briede abstained.

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Informal Proceeding Docket No. 2018-021-I – Re: Macedonia Freewill Baptist Church of Independence Louisiana, Inc. d/b/a Macedonia Freewill Baptist Church Cemetery, Independence, LA

The Director and Mr. Seidemann reviewed the details of the stipulated facts and violation(s), as well as the proposed resolution outlined by the Consent Agreement, a copy of which was before each Board Member.

The Director and Mr. Seidemann answered questions by the Board regarding the stipulated facts, violation(s), and the recommended resolution.

After discussion, Mr. Briede made a motion to ratify the Consent Agreement with Macedonia Freewill Baptist Church of Independence Louisiana, Inc. d/b/a Macedonia Freewill Baptist Church Cemetery as presented. The motion was seconded by Ms. Leufroy and unanimously approved.

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Executive Session

Ms. Leufroy made a motion to go into Executive Session to discuss litigation. The motion was seconded by Mr. Briede and a roll call vote was taken: Ms. Leufroy – yea; Ms. Patin – yea; Mr. Briede – yea; Mr. Wilbert – yea; Ms. Holloway – yea; and Mr. Melancon – yea.

Ms. Leufroy made a motion to come out of Executive Session. The motion was seconded by Ms. Patin and a roll call vote was taken: Ms. Leufroy – yea; Ms. Patin – yea; Mr. Briede – yea; Mr. Wilbert – yea; Ms. Holloway – yea; and Mr. Melancon – yea.
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Since there was no further business, Mr. Briede made a motion to adjourn at 3:15 P.M. The motion was seconded by Ms. Patin and unanimously approved.


Shelly M. Holloway, Secretary/Treasurer

Attested To:

Gerald W. Melancon, Chairman


Gerald Melancon