

Minutes of Meeting
Louisiana Cemetery Board
November 4, 2016

The regular meeting of the Louisiana Cemetery Board was held November 4, 2016, at 3445 North Causeway Boulevard, Suite 509, 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
Shelly M. Holloway, Secretary/Treasurer
F. Anton Wilbert, Board Member
Stacey L. Patin, 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: Louise F. Saenz, At-Large Board Member

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Gary A. Moore, President, Argent Trust Company, Shreveport, Louisiana; Jimmy Patin, Greenwood Memorial Park, LLC., Pineville, Louisiana; Marion Lyons, Legacy Funeral Holdings of Louisiana, LLC d/b/a Resthaven Gardens of Memory, Baton Rouge, Louisiana; and John Holloway, Mulhearn Memorial Park Cemetery, LLC., Monroe, Louisiana.

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Public Comment

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Since copies of the Minutes had been previously disseminated to each Board Member, the Chairman asked if there was any discussion and/or amendments. Mr. Briede made a motion to approve the Minutes as presented for the May 12, 2016 and May 13, 2016 Board Meetings; the July 6, 2016 and October 19, 2016 Executive Committee Meetings; and the October 19, 2016 Rules and Regulations Committee Meeting. The motion was seconded by Ms. Leufroy and unanimously approved.

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Report of Officers

The Director reviewed the Statement of Operations January through October 2016; Cash & Investments as of October 31, 2016; the Budget vs. Actual January through October 2016. After review and discussion Ms. Leufroy made a motion to accept the financial statements as presented. The motion was seconded by Mr. Briede and unanimously approved.

The Director reviewed the 2016 Proposed Budget Amendments. After review and discussion, Mr. Wilbert made a motion to accept the 2016 Proposed Budget Amendments as amended. The motion was seconded by Ms. Leufroy and unanimously approved.

The Director reviewed the 2017 Proposed Budget outlining estimated income and expenses. After review and discussion Mr. Briede made a motion to approve the 2017 Budget and increase fees to help off-set the costs associated with hiring a third employee for the board as follows: increase the 2016 interment fees for the 2017 Renewals for Certificate of Authority from eleven dollars (\$11.00) to thirteen dollars (\$13.00) per interment; to increase the Merchandise Report filing fee from six dollars (\$6.00) to eight dollars (\$8.00) on contracts written in 2017 and due in 2018; and to increase the Perpetual Care Report filing fee from two dollars (\$2.00) to three dollars (\$3.00) on contracts written in 2017 and due in 2018. The motion was seconded by Ms. Leufroy and unanimously approved.

There was a discussion regarding the Legal Litigation Escrow Account and Long Term Liabilities and Extra Ordinary Expenses certificates of deposits which mature March 4, 2017. Mr. Briede made a motion to renew the certificates of deposits for ninety (90) days so they will mature shortly after the May 2017 meeting, and in six month intervals thereafter, so their maturity will fall in line with the Board’s regularly scheduled meetings. The motion was seconded by Ms. Patin and unanimously approved.

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Report of Director

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

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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 it was unanimously approved.

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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 2016 Non-Exempt (New/Transfers) #16-527; 2016 Non-Exempt (Renewals) #16-526 and #16-528; Other Non-Exempt (Renewals) #10-505, #11-517, #12-514, #13-522, #14-530, and #15-529; and Exempts (New) #1395E - #1399E. The motion was seconded by Ms. Patin and unanimously approved.

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Reports of Committees

Special Counsel to the Board, Mr. Sullivan, reviewed the recommended amendments and additions to Board Policies and Procedures by the Executive Committee, specifically, Section 3: Personnel; and Section 7: Certificates and Licenses.

After review and discussion, Mr. Wilbert made a motion to approve and adopt the recommended amendments to Section 3: Personnel of the Board’s Policies and Procedures effective immediately. The motion was seconded by Mr. Briede and unanimously approved.

There was a discussion regarding the process of hiring someone for the Board’s new classified Compliance Investigator 3 position. After discussion, Ms. Holloway made a motion to authorize the Director to approve a beginning salary for a Compliance Investigator 3 up to \$50,000 per year, and to authorize the Executive Committee to approve a salary up to the 3rd Quartile should an applicant have extraordinary qualifications or experience. The motion was seconded by Mr. Wilbert and unanimously approved.

After review and discussion, Ms. Leufroy made a motion to approve and adopt Section 7: Certificates and Licenses of the Board’s Policies and Procedures. The motion was seconded by Ms. Patin and unanimously approved.

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The Director reviewed the October 2016 Summary Report and advised the report had been accepted by Ms. Patin but Ms. Saenz had not accepted the finding as of this date. After review and discussion Mr. Briede made a motion to ratify the Summary Report as presented, subject to acceptance by Committee Member, Ms. Saenz. The motion was seconded by Mr. Anton and unanimously approved.

The Director also provided the Board with a summary of the perpetual care and merchandise trust fund balances of reconciled reports as of November 2016.

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Special Counsel to the Board, Mr. Sullivan, reviewed the recommended amendments and additions to Board Rules and Regulations, LAC 46:XIII, by the Rules and Regulations Committee. After review and discussion, Ms. Leufroy made a motion to accept the proposed rules and amendments thereto as discussed and authorize the Director to make any necessary typographical and technical changes needed to conform with the Louisiana Register’s requirements for publication and to move forward with the publication and promulgation, as soon as practical. The motion was seconded by Mr. Briede and unanimously approved.

There was a discussion regarding Section 7: Certificates and Licenses of the Board’s Policies and Procedures previously approved and adopted. After discussion, Mr. Wilbert made a motion to amend the effective date of Section 7: Certificates and Licenses of the Board’s Policies and Procedures to coincide with the promulgation and effective date of the proposed changes to the Rules and Regulations. The motion was seconded by Ms. Patin and unanimously approved.

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Old Business

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New Business

The Director presented an amendment to the legal contract of Special Counsel to the Board, Jerry W. Sullivan, extending the expiration date of the contract from December 31, 2016 to December 31, 2017, and increasing the hourly rate from \$175 per hour to \$190 per hour. After review and discussion, Ms. Holloway made a motion to approve the contract amendments as presented. The motion was seconded by Ms. Patin and unanimously approved.

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The Director presented and reviewed the proposed Application for Abandoned Cemetery Sales and Management License for consideration and approval, pursuant to Act No. 413 which becomes effective January 1, 2017.

After review and discussion, Mr. Briede made a motion to approve the Application for Abandoned Cemetery and Management License including the technical changes discussed. The motion was seconded by Ms. Leufroy and unanimously approved.

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The Director gave a brief overview of legislation in the 2016 Regular Legislative Session effecting Title 8, the Board, and the cemetery industry.

The Director also advised Act 143 of the 2016 Regular Legislative Session created some inconsistencies between La. R.S. 8:655 and La. R.S. 8:659 which will need to be addressed in the 2017 Legislative Session

Additionally, the Director reported that a meeting was held with Argent Trust Company to discuss establishing a Master Trust in the State of Louisiana to address small cemetery trusts which are being adversely affected by trustee fees. The Board's staff will be meeting with cemetery industry and the Banking Association to discuss possible legislation to address this issue in 2018.

Chairman Melancon asked whether or not legislation is needed to protect cemetery records from flooding. Assistant Attorney General, Mr. Seidemann, advised some legislators have been involved in the flood response efforts and he believes there is going to be a call for some mitigation measures to be put in place legislatively. Mr. Seidemann further advised when it comes to identification issues, it is not just an issue with the cemetery records not being preserved but the funeral homes records as well.

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The meeting adjourned for lunch.

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Assistant Attorney General, Mr. Seidemann, provided a report and slideshow on the cemeteries affected by the 2016 Flooding.

Mr. Seidemann advised that the spreadsheet provided to the Board is updated almost daily. Twelve (12) Parishes were impacted by the storm and, as of today, we are aware of impacts in sixty-eight (68) cemeteries, including, five hundred and eighty-four (584) impacted graves. Livingston, Ascension, and St. Helena Parishes had the worst impacts. One cemetery located in Livingston had over one hundred (100) impacted graves. All of the disrupted graves were above the surface of the ground. There is a large number of unidentified caskets and most of the post-Katrina burials did not have the information in the casket memory tubes. FEMA is covering the out-of-pocket expenses of the individuals for reburial. Mr. Seidemann advised there is no legal mechanism in place to deal with this at the State and Parish levels so it's been handled on an ad hoc basis, by two people from the Department of Justice, one person from the Department of Health and Hospitals, and a contractor for the Department of Health and Hospitals.

The Director asked Mr. Seidemann if he was able to form an opinion at this time on any possible legislation needed to assist with this process in the future. Mr. Seidemann stated part of this problem is an enforcement issue with the post-Katrina caskets not containing the required information in the memory tubes. Additionally, there does need to be a legislative scheme put in place on how to deal with this in the future. The State is not equipped to do the work but is handling it because no one else would. There needs to be a specific framework for who is responsible or who is going to take charge. The State is

testing some methods for tracking caskets. One method is to bar-code caskets going back into the cemeteries with an app that scans the bar codes, collects GPS data, and allows you to put in identifiers. Another problem found was a large number of the cemeteries affected were not licensed and registered with the Board and are not maintaining records.

After discussion, Chairman Melancon stated that Mr. Seidemann has done an excellent job addressing this matter. Mr. Seidemann said he can't take full credit, he has a staff archaeologist, Christine Halling, who usually deals with the human remains sales, that is helping, along with Henry Yennie with the Department of Health and Hospitals, and Arbie "Bud" Goings, who is retired a Rabenhorst Funeral Home funeral director and is now under contract with Department of Health and Hospitals.

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The 2017 meeting dates were set for Thursday, May 4, 2017 (if necessary); Friday May 5, 2017; Thursday, November 16, 2017 (if necessary); and Friday, November 17, 2017.

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Informal Proceeding #2015-017-I – Re: St. John Cemetery Association, Inc.

The Director and Mr. Sullivan reviewed the details of the Amended Consent Agreement, a copy of which was before each Board Member.

The Director and Mr. Sullivan answered questions by the Board regarding the proposed amendments to the agreement.

After discussion, Mr. Briede made a motion to ratify the Amended Consent Agreement with St. John Cemetery Association, Inc. as presented and authorize the Director to sign the Investment Management Agreement between St. John Cemetery Association, Inc. and Argent Trust Company. The motion was seconded by Ms. Leufroy and unanimously approved.

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Informal Proceeding #2015-014-I and #2014-002-E – Re: Alexandria Garden of Memories, Inc. d/b/a Alexandria Garden of Memories

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 Alexandria Garden of Memories, Inc., d/b/a Alexandria Garden of Memories and authorize the Director to provide an extension of time to complete his Application for Certificate of Authority, if necessary. The motion was seconded by Ms. Leufroy and unanimously approved.

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Informal Proceeding #2016-025-A – Re: Evangeline Properties of Ville Platte, Inc. d/b/a Gate of Heaven Cemetery.

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 Evangeline Properties of Ville Platte, Inc. d/b/a Gate of Heaven Cemetery as presented. The motion was seconded by Ms. Patin and unanimously approved.

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At the Director's request, Mr. Wilbert made a motion to amend the Executive Session portion of the agenda to include In Re: Eugene J. Sonnier, II versus The Catholic Foundation of the Diocese of Lafayette, et al. The motion was seconded by Ms. Leufroy and a roll call vote was taken: Ms. Leufroy – yea; Ms. Patin – yea; Mr. Wilbert – yea; Mr. Briede – yea; and Ms. Holloway – yea.

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Executive Session

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

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Regarding staff performance, Ms. Holloway made a motion to increase the salary of the Assistant to the Director, Ms. Aucoin, to \$43,160 per year and the salary of the Director, Ms. McCann, to \$107,120 per year, which will place their salaries in the appropriate quartile based on their number of years of experience and their exceptional performance and dedication to the Board and industry. The salary increases are effective the first pay period of 2017 and upon approval by the Commissioner of Administration. The motion was seconded by Ms. Leufroy and unanimously approved.

The Director and Assistant to the Director thanked the Board for their consideration.

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At this time the Board Members watched an Ethics Training video.

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Since there was no further business, Ms. Leufroy made a motion to adjourn at 4:45 P.M. The motion was seconded by Mr. Briede and unanimously approved.

Shelly M. Holloway, Secretary/Treasurer

Attested To:

Gerald W. Melancon, Chairman
