

Minutes of Meeting
Louisiana Cemetery Board
October 26, 2012

The regular meeting of the Louisiana Cemetery Board was held October 26, 2012, at 111 Veterans Memorial Boulevard, Heritage Plaza, Eighteenth Floor Conference Room, Metairie, Louisiana, pursuant to notice. Chairman Melancon called the meeting to order at 9:00 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
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

Also present at the meeting were Debbie Holmes and Gary A. Moore, Argent Trust, Ruston, Louisiana; David Bedell, Westlawn Cemeteries, L.L.C., Gretna, Louisiana; Robert Lomison, Forest Park East Associates, Inc. and Forest Park West Associates, Inc., Shreveport, Louisiana; Nicole Babineaux, Memorial Park Cemetery, Inc., New Iberia, Louisiana; L. Paul Raymond, Acme Mausoleum, New Orleans, Louisiana; Michael Boudreaux, Archdiocese of New Orleans, New Orleans, Louisiana; and Jimmy Patin, Greenwood Memorial Park, Pineville, Louisiana.

Chairman Melancon welcomed newly appointed Board Member Richard C. Briede to the Board. Mr. Briede was appointed to represent the 1st Public Service Commission District.

Public Comment

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

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 – On-site Examination of Perpetual Care and Merchandise Trust Funds and Status Report regarding Consent Agreement and maintenance issues.

The Director gave a brief summary of actions by the Board to date regarding Forest Park Cemetery and Forest Park West Cemetery.

The Director reviewed outstanding issues relating to the 2011 On-Site Examinations of Forest Park Cemetery and Forest Park West Cemetery, which include general maintenance issues, such as overgrown shrubs and removal of tree stumps, sequential versus proportional trusting within the Forest Park's trust system and the funding of merchandise and services contracts within seven years. Additionally, there are the long-term maintenance issues, which are covered by the Consent Agreement, entered into with the Board in 2009. Director advised that Forest Park has indicated the trust system issues have been resolved, but Forest Park has not produced sufficient supporting documentation. Regarding the perpetual care and merchandise trust fund deposits, the Director stated at the May meeting the Board reviewed Forest Park's conversion of vault contracts in trust to storage, and the use of excess proceeds from the conversion to offset the delinquent deposits due the trust funds. The Director stated, in preparation for this meeting, the trustee was contacted to determine if the perpetual care and merchandise trust fund deposits were current, but they were again found to be delinquent. As of today, Forest Park West perpetual care trust fund appears current, after three months of deposits were made in October. Forest Park West merchandise trust fund appears current, after four months of deposits were made in October. Forest Park East merchandise trust fund appears current, after the checks received today by Argent a total of four months of deposits were made in October. Forest Park East perpetual care trust fund appears to be delinquent by two months (May and June 2012), after two months of deposits were made in October.

The Director reviewed the last two quarterly reports received from Forest Park on the long term maintenance issues, which also included an update of the general maintenance issue noted during the 2011 on-site examination.

Chairman Melancon asked Mr. Lomison to address the delinquency issues. Mr. Lomison thanked the Board for the opportunity to address them and stated as of this morning he thought they were current, but would check into the delinquent deposits mentioned today. Mr. Lomison said that it was a product of cash flow; they are not trying to be bad citizens. In preparation for this meeting, Mr. Lomison advised he reviewed some of their cash flow decisions and determined some of the cash went to the funeral home instead of going into trust. However, with the exception of the two months mentioned today, we are current as of today with our trusting obligations and we are going to work hard to stay current. In terms of the funds themselves, they are performing very well, with close to \$9M in trust between merchandise and endowment care trust funds. We continue to over

fund our perpetual care accounts; we charge 15% instead of the statutory 10%. We also continue to contribute memorial care; we have deposited in excess of \$1M in memorial care into the endowment care funds over the last twelve years. Regarding the question relating to the trusting of merchandise contracts within seven years, Mr. Lomison said they are still working on that question. We are switching computer systems from HMIS to SRS at the first of the year and we are in a transition phase. Mr. Lomison said he has been assured that the sequential trusting issue has been corrected, for whatever reason we are unable to provide supporting documentation of the correction. The Director asked about SRS. Mr. Lomison said the system, which was funded by Matthews, has been used mainly in the funeral home industry.

The Director asked when Forest Park anticipated addressing the general maintenance issues such as the removal of stumps. Mr. Lomison indicated that they have a tree service company that is currently marking trees that need to be removed, and estimates there is at least a \$100,000 of tree removal that needs to be done just at Forest Park East. Mr. Lomison also stated that in the last twelve years, we have spent \$50,000 to \$75,000 on tree removal, and it is an ongoing effort.

Regarding the mausoleum issues at Forest Park East and Forest Park West, Mr. Lomison indicated that the foundation repairs have been made and they are monitoring those foundations to insure they are stable prior to making any cosmetic repairs to the mausoleums.

Regarding the drainage issues at Forest Park East, they continue to work with the City of Shreveport and some repairs have been made.

Regarding the perpetual care and merchandise trusting, the Chairman asked if Forest Park is doing incremental trusting. Mr. Lomison indicated yes they are. The Chairman stated, as customers make payments to Forest Park, Forest Park has the money to place in trust but you are just using the money in other areas. Mr. Lomison said that is not an issue, this year we are \$1M ahead in sales compared to last year. It is part of the global aspect of my business, all of the locations, Shreveport is doing fine financially and thus we made good on the trusting issues.

The Chairman asked Mr. Lomison if he was doing the same thing in other states, using trust fund monies for other issues. Mr. Lomison said no, Louisiana is the cash center of our company. New York is our largest property and Shreveport is our second largest. The Chairman asked what states Mr. Lomison operates in. Mr. Lomison indicated he had cemetery properties in Washington State, New York, Pennsylvania, Louisiana and Texas. The Chairman asked if any of the regulatory boards in those states found irregularities in cemeteries in their states. Mr. Lomison stated that in 2006, they had an issue in Washington State involving perpetual care but we were over funded there also, although they did fine us, but we have no issue in the other states. The Chairman said his concern is that Louisiana is being shortchanged; the trust fund money coming in is not for the cemetery to use, it is for the consumer. The trust fund deposits are not being made in a timely manner and in accordance with the Consent Agreement. The Chairman stated

someone should be in charge of this issue and make sure the deposits are made timely every month. Mr. Lomison said we are, and I can assure you, you will not be seeing me here again on this issue. When I received the Director's letter, I was very direct with my staff, I will not be back for this issue and I apologize to the Director and the Board.

The Director asked when Forest Park anticipated the stump removal process to begin. Mr. Lomison stated they are going to contract with Miller Tree Service, and they will come in monthly, as their schedule permits, and begin the tree and stump removal based on a monthly contract amount. Mr. Briede said the last quarterly report indicates they have contacted the tree service company and the engineering company monitoring the foundation and asked for clarification of whether they have contacted or contracted with these companies. Mr. Lomison indicated that have contracts with the tree service company and the engineering firm that is monitoring the foundations of the mausoleums.

Ms. Holloway asked Mr. Lomison if he could make sure the delinquent deposits are made on Monday and notify the Board when that is done. Mr. Lomison said he would do that.

The Chairman thanked Mr. Lomison for his attendance and participation.

Westlawn Cemeteries, LLC – Request for Extension on behalf of Our Lady of the Angels d/b/a Holy Angels Cemetery, Waggaman, LA – Our Lady of the Angels Mausoleum Building D.

Mr. David Bedell, General Manager of Westlawn Cemeteries addressed the Board stating the permit for the project was applied for on February 23, 2012, and eight months later, October 23, 2012, we were able to start work. The delay was because of a zoning issue. Previously there was a church on the property but it was removed, which changed the use from an R1 to an R2 to allow the mausoleum to be built. There was also a delay in the approval by the Parish Council due to Hurricane Isaac. A six-month extension is being requested, because construction did not start within the four year required time frame. However, Westlawn anticipates the completion of the project will be within five years.

After discussion, Ms. Holloway made a motion to grant the six-month extension request pursuant to La. R.S. 8:606. The motion was seconded by Ms. Leufroy and unanimously approved.

The Director advised Westlawn Cemeteries, L.L.C. is requesting the Board look into "Gravesolutions.com" for possible violations of Title 8, more specifically 8:904 Speculative sales of interment spaces and the right of use in an interment space.

Ms. Mize stated based on the information on the website, it appears that if a family owns a plot(s) that they no longer have a use for, they have a choice of paying this company an

advertising fee to put it on the website or a brokerage fee and to sign a brokerage agreement with this company. We looked at some of the listings and, in most cases, it shows the family as the seller so it does not appear that Grave Solutions is buying and selling cemetery spaces in violation of La. R.S. 8:904. The only caveat is that there are a few entries where either Grave Solutions or its parent company, their name or phone number, are listed as the seller contact. My guess is when a family does not want their name or phone number on the internet, then Grave Solutions will provide that service for them. Since there are these few items that list Grave Solutions as the seller, the alternatives for the Board are to do nothing, since it does appear that Grave Solutions is acting as a middle man, or the Board could ask the Director to send a letter to Grave Solutions reminding them that La. R.S. 8:904 prohibits speculative sales.

Ms. Mize advised, there was something similar in 1993 called The Cemetery Resale Network of America. Mr. Stich, a member of her firm, gave the same advice then because the company was not buying the cemetery space and reselling it at a profit, they were only getting the buyers and sellers together, and there was no violation of La. R.S. 8:904.

After discussion, Ms. Holloway made a motion to notify Grave Solutions of the provisions of Title 8 regarding speculative sales and to copy Westlawn Cemeteries. The motion was seconded by Ms. Patin and unanimously approved.

Memorial Park Cemetery, Inc. d/b/a Memorial Park Cemetery, New Iberia, LA – Accounting of Perpetual Care and Merchandise Trust Funds at Iberia Bank a/k/a Iberia Wealth Advisors.

The Director advised in 2009 Memorial Park Cemetery had three perpetual care trust funds that were merged, through a court order, into one perpetual care trust fund. Prior to the merger, some of the trust funds were with Regions Bank and some were with Iberia Bank. Iberia Bank is now the trustee of the merged perpetual care trust fund and the cemetery's merchandise trust fund. At the time of the merger, the perpetual care trust funds totaled approximately \$328,000. The funds were invested in permissible investments under Title 8, including bonds that were purchased at a premium. In 2009, Iberia Bank purchased a Fannie Mae Bond at a rate of 6%, the face value of the bond was \$113,000 and the premium paid was \$7,262.25. Also, in 2009, they purchased a La. St. Citizens Property Ins. Bond at a rate of 6.75%, the face value of the bond was \$90,000 and the premium paid was \$13,914.20. These bonds were purchased in the middle of a coupon cycle and accrued interest was paid on both bonds totaling \$3,816.25. In 2012, the Board received trustee reports and they could not be balanced and reconciled. The accounting of the trust was not done properly and when the interest was paid on the investments the trustee did not offset the accrued interest paid, and distributed the interest income in its entirety to the cemetery, resulting in an over distribution of income and invasion of principal. Further, it was determined the trustee was not amortizing the premiums paid on the investments so that when the investment matured the book/cost

value of the investment would be equal to the face value of the investment at maturity. Additionally, in 2012, the Fannie Mae bond was called and the trustee wanted to show the unamortized premium as a capital loss. The Director advised the trustee this was not a capital loss but an over distribution of income, resulting from the unamortized bond premiums. The Director stated, to the best of her knowledge, La. St. Citizens Property Ins. Bond is still in the portfolio and matures in 2026 but does have a call date of 2018, and recommends the trustee begin amortization of the premium paid on this bond. The Director advised that she requested the trustee, Iberia Bank, attend today's meeting but they refused. Regarding the over distribution of income and invasion of principal, two options were given to resolve this matter. The trustee could withhold further interest income distribution until the over distribution and principal is reimbursed or the cemetery could deposit the funds back into the trust. To date the over distribution and invasion of principal, relating to accrued interest, trustee fees, and unamortized bond premiums on the called bond, totals approximately \$12,000.

The Director stated there is one investment in the merchandise trust fund, which also appears to have been purchased at a premium, but the accrued interest and premium paid are small, less than \$100 total.

Ms. Mize stated when the Director brought to the trustee's attention that there had been an over distribution of income, Mr. Hoffpauir of Iberia Bank relied on the general provision of the trust code. In the absence of some other more specific provision within the trust instrument or in the absence of some other more specific law, the trustee has very broad powers to allocate income and principal and to allocate among income and principal beneficiaries. In the Board's correspondence of September 25, 2012, we pointed out to the trustee that Title 8 is more specific on this issue. It only allows the income to be distributed to the cemetery annually; it does not allow the distribution of principal. Title 8 is a more specific law that would override the general provisions of the trust code. Mr. Hoffpauir chooses to disagree.

Ms. Babineaux stated her brother, Dalton "Kippy" Babineaux, Jr., told Mr. Hoffpauir to follow Ms. McCann's instructions. Ms. Mize stated that apparently Mr. Hoffpauir will only accept instructions from the entire Board; he will not take instructions from Memorial Park Cemetery or the Director of the Board. Two things need to be done, to remedy the over distribution of income and to begin the amortization of premium paid on the La. St. Citizens Property Ins. Bond that is still held. Regarding the amortization of the Bond that is being held, it makes sense to start now since there are some years left to the term of the bond. The Director stated the question is whether the amortization should be to the call date or maturity date of the bond. Ms. Mize stated it is our understanding that it is the trust industry custom and standard to use the maturity date. The Chairman stated that in the insurance field they use the maturity date; if a bond is called, it is a loss to income in the year it is called, not a loss in principal. Ms. Holmes, Argent Trust, stated industry standard is to the maturity date, but that their system does allow them to amortize to call date if requested.

There was a discussion regarding the amount of the over distribution of income and the options available to correct the deficiency. Ms. Babineaux also indicated that they are considering discharging Iberia Bank as trustee and appointing a successor trustee.

After discussion, Ms. Holloway made a motion to advise Iberia Bank that the over distribution of income identified by the Director, (accrued interest, trustee fees and unamortized premiums of the called bond) must be restored to the trust fund, and that the premium paid on the bond which remains in trust needs to be amortized prospectively to the maturity date. The motion was seconded by Mr. Briede and unanimously approved.

Mr. Briede made a motion to authorize the Director to work with Memorial Park regarding a reasonable plan for the repayment of the over distribution of approximately \$12,000, to be presented to the Board at the next meeting for ratification. The motion was seconded by Mr. Wilbert and unanimously approved.

The Chairman said Memorial Park did not have to wait for ratification of the agreement to begin the repayment of the over distribution of income.

Ms. Babineaux asked, if the accounting issues need to be resolved with Iberia Bank prior to moving the trust to a successor trustee. The Director stated if the resigning trustee does not provide a closing report within sixty days after resignation or discharge, at minimum we should be able to receive copies of the trust statements through the date of discharge. The Director also advised that the successor trustee normally receives copies of the tax returns on the trust.

The Chairman thanked Mr. Babineaux for her attendance and participation.

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

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Since copies of the Minutes of Meetings held May 17, 2012 and May 18, 2012, 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 May 17, 2012 and May 18, 2012 Meetings as presented. The motion was seconded by Ms. Patin and unanimously approved.

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Report of Officers

The Director reviewed the Statement of Operations January through September 2012; Cash & Investments as of September 30, 2012; the Budget vs. Actual January through

September 2012; and the 2012 Proposed Budget Amendments. After review and discussion, Ms. Leufroy made a motion to accept the financial statements as presented. The motion was seconded by Mr. Wilbert and unanimously approved.

The Director reviewed the 2013 Proposed Budget. After review and discussion, Ms. Leufroy made a motion to accept the 2013 Proposed Budget as presented. The motion was seconded by Mr. Wilbert and unanimously approved.

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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 stated the Board does not have current or complete Application for Certificate of Authority for this cemetery. Further, there is an objection on file with the Board regarding the issuance of a license to this cemetery. The objection cannot be considered until the completed Application for Certificate of Authority is received.

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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 this Application for Certificate of Authority is complete. Ms. Mize recently issued her letter of approval, and it has been sent to the Executive Committee for final approval.

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False River Memorial Park, L.L.C. d/b/a False River Memorial Park, New Roads, LA - Pending Application for Certificate of Authority for the change in ownership. The Director advised this Application for Certificate of Authority is complete. Ms. Mize recently issued her letter of approval, and it has been sent to the Executive Committee for final approval.

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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Living Word Christian Fellowship Full Gospel, Inc. d/b/a Living Word Cemetery, Breaux Bridge, 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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St. John Cemetery Association, Inc. d/b/a St. John Cemetery / Hope Mausoleum, New Orleans, 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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Highland Cemeteries, Inc. d/b/a Highland Cemeteries, Mansfield, 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. Luke United Methodist Church, Inc. d/b/a St. Luke United Methodist Church Cemetery, Baton Rouge, 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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Rose Lawn Development Association, Inc. d/b/a Roselawn Memorial Park, Baton Rouge, 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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Heavenly Gates Cemetery of Baton Rouge, LLC d/b/a Heavenly Gates Cemetery, Baton Rouge, LA – Pending Application for Certificate of Authority for the establishment of a new perpetual care cemetery. The Director advised the Application for Certificate of Authority is incomplete and reviewed the outstanding documentation needed to complete the application.

Woodlawn Mausoleum, Inc. d/b/a Woodlawn Mausoleum, Ferriday, LA – Status Report regarding On-site Examination of Perpetual Care Trust Fund.

The Director stated, as noted in the 2011 On-Site Examination, the cemetery could not produce interment records. The Director advised she has not been able to verify compliance.

Evangeline Memorial Park Incorporated d/b/a Evangeline Memorial Park, Ville Plate, LA – Status Report regarding 2012 On-site Examination of Perpetual Care Trust Fund.

The Director gave a brief summary of actions by the Board to date regarding Evangeline Memorial Park.

The Director reviewed the findings of the June 13, 2012 On-site Examination of Evangeline Memorial Park. The examination covered 2009, 2010 and 2011. During the On-site Examination it was determined that an additional deposit of \$472.95 was due the perpetual care trust fund on sales and free spaces, and that deposit was made on September 21, 2012. However, to date, Evangeline Memorial Park has not made deposits covering the 1st and 2nd quarters of 2012.

Regarding pre-need storage to satisfy paid in full pre-need contracts, the cemetery's vault inventory was deficient as follows: (3) concrete vaults, (4) deluxe concrete vaults; and (3) vantage vaults. Evangeline Memorial Park has provided documentation indicating they have delivered a few pre-need vaults, however, no information has been provided regarding additional purchases or inventory. Additionally, if the cemetery has used inventory for purposes other than the delivery of a pre-need contract since the On-site Examination, the deficiencies may not be accurate. A current inventory will have to be done to determine the exact deficiency.

Regarding pre-need storage of granite to satisfy stored bronze memorials, the cemetery's granite is deficient. An accurate deficiency cannot be determined until the cemetery provides the additional information, which has been requested on several of the stored memorials.

Pursuant to the Consent Order issued in Administrative Hearing No. 2010-001, as of October 30, 2010 Evangeline Memorial Park cannot sell pre-need merchandise and

services. There were no exceptions noted during the On-site Examination, however, ten contracts were found that were not delivered within one hundred twenty (120) days after final payment on contract. Six of those contracts were at-need contracts sold after October 30, 2010. Based on information received from Evangeline Memorial Park since the On-site Examination, five of the ten contracts have now been delivered.

The Director also provided the Board with a copy of Evangeline Memorial Park's correspondence of October 18, 2012, explaining why they could not attend today's meeting. Ms. Mize pointed out Evangeline Memorial Park has offered to meet with the Director at her office after November 1, 2012. The Director advised that it would be better to go to Evangeline Memorial Park so that a current inventory of the stored merchandise can be taken.

The Chairman stated he does not believe Evangeline Memorial Park understands the intent of the Order of the Board, they think they can sell at-need but not deliver within one hundred and twenty (120) days after final payment on contract.

After discussion, Ms. Holloway made a motion to authorize the Director and the Chairman to negotiate and sign a Consent Agreement to resolve the outstanding violations and present the Consent Agreement to the Board for ratification at the next meeting. Ms. Leufroy seconded the motion and it was unanimously approved.

Oak Lane Memorial Park, L.L.C. d/b/a Oak Lane Memorial Park, Prairieville, LA – 2012 On-site Examination of Perpetual Care Trust Fund.

The Director gave a brief summary of actions by the Board to date regarding Oak Lane Memorial Park.

The Director reviewed the findings of the August 13, 2012 On-site Examination of Oak Lane Memorial Park. The examination covered a period of thirteen (13) months in order to reconcile receipts through the 2nd quarter of 2012. During the On-site Examination, it was determined perpetual care deposits covering the 3rd and 4th quarters of 2011 and the 1st and 2nd quarters of 2012 were not made timely pursuant to law. Further, a recent check with the trustee of the perpetual care trust fund indicates, to date, the 2nd quarter deposit for 2012 has not been made and is delinquent.

During the examination, one contract was identified that indicated an "employee discount" had been given, which was contrary to the Consent Agreement entered into with Oak Lane as settlement of Administrative Hearing #2011-002. Oak Lane advised that the employee did not take a full commission on the sale, which would have been taxable to her.

One Columbarium contract was identified that the perpetual care deposit had not been made. Oak Lane has indicated this was on oversight and that the deposit would be made with the 2nd quarter 2012 deposit, which is now delinquent.

Several contracts were not provided during the On-site Examination. To date, all contracts have been provided with the exception of six. Oak Lane advised that the contracts are in the possession of an employee that terminated employment unexpectedly, and they have been unable to recover these missing contracts.

Several contracts were identified that indicated the cemetery was not delivering merchandise within one hundred and twenty (120) days after final payment on contract; those contracts are identified in Schedule B. The Director reviewed the information provided by Oak Lane on these contracts, and indicated that while many of the contracts were now purchased and had been delivered to the cemetery, they were not installed on the grave as required by law for determination of delivery. The Director also advised that a consumer complaint had been received regarding Oak Lane's failure to timely install a memorial.

Several Columbarium contracts were identified that indicated "no charge on o/c of niches per mm". Oak Lane advised the "no charge for opening and closing" was their attempt to confirm there will be no services provided by Oak Lane. Oak Lane also advised, that this gives the customer control over when to put the urn in the niche, and allowing the customer complete access to their loved one's ashes, which provides them with the additional comfort of knowing that their loved ones can be visited or moved at any time. Photographs demonstrating the removal of a niche plate with a paperclip were included in Oak Lane's response.

At the time of the On-site Examination, Oak Lane had four memorials in storage at the cemetery. Oak Lane was reminded that Act 98 will be effective January 1, 2013, and inventory will need to be insured against theft and casualty. Oak Lane advised they intend to install or deliver to the customer all stored memorials prior to December 31, 2012.

Regarding the Giles Private Family Garden, we noted that the feature has only one bench, but the contract provides for two benches. Oak Lane provided a copy of a text message between Michael Miller, Manager of Oak Lane, and Mr. Giles regarding the discrepancy.

Several granite memorial contracts were identified which indicated design only and the inscriptions (names and dates) are to be completed at a later date. The contracts are silent as to whether or not the price charged for the monument includes or excludes the inscriptions. Oak Lane has provided a Memorandum to all employees advising: "Any monument contract shall list all items purchased. Any engraving that must be placed on the monument in the future will be charged to the customer at the market rate at the time of the request".

During the On-site Examination, Mr. Bonfanti advised they had been soliciting for the sale of a portion of its property for the development of a funeral home. Therefore, we have requested Oak Lane provide current information regarding the Contract Development Agreement between the Parish of Ascension and Oak Lane that was submitted to the Board at the time they applied for their Certificate of Authority. Oak Lane advised, the Contract Development Agreement with Ascension Parish is being re-written.

The Board recessed for lunch at 11:45 A.M. and reconvened at 12:45 P.M.

There was a discussion regarding each of the violations noted during the 2012 On-site Examination of Oak Lane.

The Board agreed the 2nd quarter deposit for 2012 and the amount due on the Columbarium contract (#1731) was delinquent pursuant to law.

Regarding the “employee discount”, the Board determined perpetual care was due on the price of the space prior to the discount.

Regarding the missing contracts, the Board requested the Director to continue to monitor to see if the contracts can be accounted for.

Regarding the merchandise on Schedule B the memorial must be permanently affixed to the grave to be considered delivered pursuant to Title 8, therefore Oak Lane is in violation of Title 8 regarding the delivery of merchandise within one hundred and twenty (120) days after final payment on contract. The Chairman pointed out that the installation is included in the price of the memorial so it should be installed immediately because the consumer has already paid for that service.

Regarding the Columbarium contracts identified which provide “no charge on o/c” the Director expressed concern regarding the explanation provided by Oak Lane regarding the opening and closing of niches. The explanation given is in violation of Oak Lane’s Rules and Regulation, and the provisions of Title 8 relative to interment records (La. R.S. 8:662), and permission to move remains (La. R.S. 8:659). The Board agreed that the acts described in the explanation provided would violate Title 8 and the Cemetery’s Rules and Regulations. The Board also determined that future contracts should itemize the price of the opening and closing and clearly state that the opening and closing is included or is not included in the price. Lastly, the Board determined that 70% of the \$50 identified by Oak Lane as price of the opening and closing should be placed into a merchandise trust fund for the contracts identified.

Regarding the stored merchandise, the Director advised she would apply the provisions of Act 98 to any memorial not delivered by January 1, 2013.

Regarding the Giles Private Family Garden, the Board determined Oak Lane must provide a formal contract amendment reflecting the contract has been amended for only one bench.

Regarding the granite monument contracts identified which indicated design only and the inscriptions are to be completed at a later date, the Board determined that future contracts must clearly indicate if the inscriptions are included in or excluded from the price.

Regarding the Contract Development Agreement, the Board requested the Director ask Oak Lane to keep the Board informed regarding this matter and request a copy of the re-written agreement when it is complete.

After discussion, Ms. Leufroy made a motion to accept the findings of the 2012 On-site Examination of Oak Lane. The motion was seconded by Ms. Patin and unanimously approved.

Mr. Briede made a motion that the 2012 On-site Examination found that Oak Lane failed to make perpetual care deposits timely and failed to deliver merchandise and services within one hundred and twenty (120) days of final payment on contract. The motion was seconded by Mr. Wilbert seconded the motion and it was unanimously approved.

Ms. Saenz made a motion to find that the violations set out in the preceding motion constitute material violations of Title 8 and the Rules and Regulations of the Board. The motion was seconded by Ms. Leufroy and unanimously approved.

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Walters Funerals, L.L.C. d/b/a Greenlawn Memorial Gardens, Lafayette, LA – Status Report regarding On-site Examination of Perpetual Care Trust Fund.

The Director reviewed the findings of the July 29, 2012 On-site Examination of Greenlawn Memorial Gardens. The Director reported the delinquent reports and pre-need inventory deficiencies have not been corrected. However, there are pending questions regarding the spreadsheets provided by Greenlawn Memorial Gardens that will need some follow-up prior to closing the examination.

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Lafayette Memorials, Inc. d/b/a Lafayette Memorial Park, Lafayette, LA – Status Report regarding On-site Examination of Merchandise Trust Fund

The Director reviewed the findings of the July 17, 2012 On-site Examination of Lafayette Memorial Park. The Director reported that one exception was noted on the withdrawal verification and she is still awaiting confirmation that the contract has been re-deposited. Regarding storage, the Director reported the vault storage appeared accurate and a detailed inventory of the approximately 200-300 bronze memorials in storage at the

cemetery has been requested. Pursuant to Act 98, all pre-need merchandise stored at the cemetery will be required to be insured against casualty and theft.

The Chairman pointed out that the cemetery can choose to deliver the bronze memorials by installing them on the individual grave spaces.

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Beau Pre' Memorial Park, Inc. d/b/a Beau Pre' Memorial Park, Jeanerette, LA – Status Report regarding On-site Examination of Perpetual Care and Merchandise Trust Funds

The Director reviewed the findings of the June 27, 2012 On-site Examination of Beau Pre' Memorial Park. The Director reported perpetual care examination is not closed; confirmation has been received indicating the maintenance issues have been resolved, and the corporation is now in good standing with the Secretary of State.

Regarding the merchandise trust fund examination, the Director reported the cemetery was allocating unrealized gains and losses to the contracts within its merchandise trust fund. The Director provided Beau Pre' Memorial Park's correspondence, which indicated they have now started allocating net income (interest less expenses) and realized gains and losses. The Director advised that follow-up was still needed on this issue to reconcile principal and income in the cemetery's trust system against principal and income within the trust fund. The Director stated the office of the Board is currently reviewing past annual reports to get an accurate accounting of the principal and income within the merchandise trust fund. When the reconciliation is complete, the cemetery may have to make an adjusting entry within its trust system.

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Bellevue Memorial Park, Inc. d/b/a Bellevue Memorial Park, Opelousas, LA – Status Report regarding On-site Examination of Perpetual Care and Merchandise Trust Funds

Bellevue Memorial Park, Inc. d/b/a Holy Sepulcher Mausoleum, Opelousas, LA – Status Report regarding On-site Examination of Perpetual Care Trust Fund

The Director reviewed the findings of the June 12, 2012 On-site Examination of Bellevue Memorial Park and Holy Sepulcher Mausoleum. The Director reported Bellevue Memorial Park and Holy Sepulcher Mausoleum are two separate cemeteries owned by the same corporation. Further, the cemetery authority inadvertently placed perpetual care deposits for Holy Sepulcher Mausoleum into Bellevue Memorial Park's perpetual care trust fund, and has co-mingled the interment records for Bellevue Memorial Park and Holy Sepulcher Mausoleum.

Regarding the merchandise trust fund examination of Bellevue Memorial Park, they are deficient in their pre-need vault storage by eleven (11) vaults, and a detailed inventory of the bronze memorials in storage at the cemetery has been requested. Pursuant to Act 98,

all pre-need merchandise stored at the cemetery will be required to be insured against casualty and theft.

S.E. Cemeteries of Louisiana, L.L.C. d/b/a Metairie Cemetery, New Orleans, LA – Pre-need Funeral Trust classified as a Merchandise Trust Fund

The Director reported this trust fund will be removed from the Board's records because information has been provided that the contracts in the trust are all pre-need funeral contracts, and are therefore not under the jurisdiction of Title 8. The Director reported that the notice of the removal from the Board's records has been provided to the trustee and State Board of Embalmers and Funeral Directors.

Progressive National Bank – Resignation as trustee of Perpetual Care Trust Fund for Highland Cemeteries, Inc., Mansfield, LA

The Director advised Progressive National Bank notified the Board and the new owner of Highland Cemeteries, Mr. Higdon, of their desire to resign as trustee of the cemetery's perpetual care trust fund in January 2012. To date, the cemetery has not appointed a qualified successor trustee. The Director presented correspondence from Wayne Davis, Progressive National Bank requesting the Board take legal measures to force Mr. Higdon to appoint a successor trustee, and if Mr. Higdon fails to comply, Progressive National Bank is requesting that the Board revoke the cemetery's Certificate of Authority until they comply with all laws and regulations. The Director reported that Mr. Davis indicated in a telephone conversation that he wanted to send the Board a cashier's check for the balance of the trust fund, and he was advised that would not be acceptable under the law or the trust agreement.

Mr. Seidemann stated this is a dispute between Progressive National Bank and Highland Cemeteries, Inc.

After discussion, the Board requested the Director notify Progressive National Bank that this matter is a dispute between the cemetery and the trustee, and to remind the trustee of its fiduciary responsibility.

The Director reviewed the Applications for Pre-Construction Sales Projects received since the last meeting.

The Board scheduled the 2013 Regular Meetings for May 16 & 17, 2013 and November 7 & 8, 2013.

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After discussion, Ms. Leufroy made a motion to renew the legal contract for Special Counsel to the Board, Sharon C. Mize, for a period for two years at the current contract rate of \$35,000 per year. The motion was seconded by Ms. Holloway and unanimously approved.

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The Director reviewed the Revised 2013 Renewal Application for Certificate of Authority; Revised 2013 Request for Information on Exempt Certificate of Authority to determine if exemption previously granted should be continued; Revised Report of Perpetual Care Endowed Care Trust Fund Form; Annual Report of Cemetery Merchandise and Services; and Annual Inventory Log. The Director advised the forms were revised to incorporate the provisions of Act 98, which becomes effective January 1, 2013.

Ms. Holloway recommended the signature blocks of the report be amended to take into consideration Limited Liability Companies. The Director reported they would review the reports and made the necessary corrections.

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After review and discussion, Ms. Leufroy made a motion to accept the revised reports and authorize the Director to make all necessary technical changes. The motion was seconded by Ms. Patin and unanimously approved.

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There was a discussion regarding the report filing fee pursuant to Act 98. The Director reported, pursuant to Act 98, the fee would be due on each contract written for merchandise or services that is placed in trust, stored at the cemetery, or stored with a supplier.

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After discussion, Ms. Leufroy made a motion that the fee be set at \$2 per contract. The motion was seconded by Ms. Saenz and unanimously approved.

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The Director advised that each Board Member is required to receive one hour of ethic's training each year. Further, the Director advised she attempted to schedule the Board of Ethics to provide the training, but was advised they would not conduct training unless the group was over one hundred fifty people. The Director provided each Board Member with information on the public training classes available throughout the state. Alternatively, training can be done online through the Board of Ethics website.

The Director reported Regions Bank is now requiring cemeteries provide a certified copy of death certificates for all withdrawals from merchandise trust funds, which is the requirement under Title 8, and several cemeteries have complained. During On-site Examinations, the Board has always viewed Burial Transit Permits or published obituaries as equivalent documentation for verification of a death. The Director expressed concern that there may be some conflict with HIPPA or other Privacy Laws because death certificates contain the cause of death. The Director recommended the Board consider amending Title 8 to allow other equivalent documentation for verification of a death and for purposes of withdrawals from merchandise trust fund.

After discussion the Board recommended the Director contact the Louisiana Cemeteries Association and request they pursue legislation to address this issue.

Mr. Seidemann gave a brief summary of the cemetery damage from Hurricane Isaac, stating that there were three cemeteries in Plaquemines that sustained heavy damage, resulting in the displacement of human remains. DMORT was not activated, which left the state responsible for responding on its own. The Attorney General's Office, LSU, FEMA, and volunteers are working together on the cleanup. To date, LSU has approximately forty sets of unidentified remains. Identifiable remains are being placed back into the cemeteries in vaults provided by FEMA.

Further, Ms. Seidemann reported that the tube and tags implemented after Hurricane Katrina are not working well or they are not being used and that may need to be revisited at a later date. The Chairman asked if Mr. Seidemann could provide information regarding what is working and not working with regarding to the tagging of remains and caskets. Mr. Seidemann indicated he would try to gather more information and on the problems found during the recovery and identification process.

The Director pointed out that the displaced remains were all from above ground and partially buried vaults, which were the same problems found in Hurricane Katrina.

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 2012 Non-Exempt (New/Transfers) #12-509 - #12-511; and Exempts (New) #1304E - #1307E. The motion was seconded by Ms. Holloway and unanimously approved.

On-site Examinations performed since last Board Meeting

The Director stated (16) Perpetual Care and (6) Merchandise examinations have been performed since the last Board Meeting. Further, Director reported the SCI Examination which she attempted to conduct with electronic records is very time consuming and not efficient. Also, all of the communication regarding the examination has been with the company SCI has outsourced trusting to, and not directly with SCI. The Director said it would be better to conduct the examination at each location within Louisiana.

Reports of Committees

The Director advised the Executive Committee met October 25, 2012 to review proposed Policies and Procedures for the Board. The Executive Committee approved by unanimous consent to put before the full Board for approval, the Policies and Procedures entitled Section 1: Purpose; Section 2: Financial; and Section 3: Personnel. Copies were disseminated to each Board Member for review.

The Director advised the Board's auditor also reviewed the draft, and the auditor advised it satisfactorily addressed the issues raised in the last audit of the Board.

After review and discussion, Mr. Wilbert made a motion to approve the Policies and Procedures entitled Section 1: Purpose; Section 2: Financial; and Section 3: Personnel as presented. The motion was seconded by Mr. Briede and unanimously approved.

The Director reported the Examination and Inspection Committee, Ms. Saenz and Ms. Patin, reviewed the current perpetual care and merchandise trust fund reports on September 28, 2012. A spreadsheet was provided to the Board outlining each perpetual care and merchandise trust fund and their current balances.

The Director advised that the Rules and Regulations Committee, has met four times in 2012, and the last meeting was October 25, 2012. Ms. Leufroy, Chair of the Committee thanked the Board staff, Legal Counsel and Committee Members for their work and dedication on this project. Ms. Leufroy stated the Committee is tentatively scheduled to meet again in January and anticipates putting forth a final draft of the reviewed rules to the full board for consideration in early 2013. The Director stated a special Board Meeting would be called to consider the proposed changes recommended by the Committee. Once the full Board approves a draft, we can move forward with the promulgation of the proposed changes pursuant to the Administrative Procedures Act (APA).

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Old Business

Alexandria Garden of Memories, Inc. (“AGM”) – Status Report regarding Order issued in Administrative Hearing #2008-002 Reconvened.

The Director advised that the Board requested that a current On-site Examination of the cemetery be conducted prior to this meeting, but due to time restraints, the examination has not been completed. Further, the question of what would be gained by another audit has been raised because the last examination revealed the cemetery’s records were not adequate to determine compliance. Recent information received from the trustee of the perpetual care and merchandise trust funds, Argent, indicates the cemetery made deposits to its perpetual care and merchandise trust funds covering sales and/or receipts in 2011. After discussion, the Director advised she would meet with Mr. Claiborne to ascertain the status of his bookkeeping records.

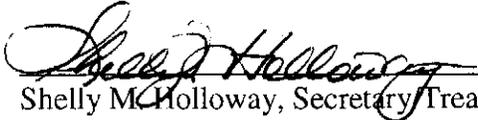
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Oak Lane Memorial Park, L.L.C. d/b/a Oak Lane Memorial Park, Prairieville, LA – Status Report regarding Consent Agreement issued in settlement of Administrative Hearing #2011-002.

The Director reviewed a spreadsheet indicating the payments due the perpetual care trust fund of Oak Lane Memorial Park pursuant to the Consent Agreement have been made.

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

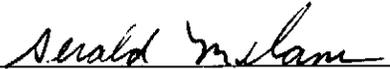
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Mr. Wilbert made a motion to come out of Executive Session. The motion was seconded by Mr. Briede and a roll call vote was taken: Mr. Melancon – yea; Ms. Leufroy – yea; Ms. Patin – yea; Mr. Wilbert – yea; Ms. Saenz – yea; Mr. Briede – yea; and Ms. Holloway – yea.

Since there was no further business, Ms. Leufroy made a motion to adjourn at 3:40 P.M. The motion was seconded by Mr. Briede and unanimously approved.



Shelly M. Holloway, Secretary/Treasurer

Attested To:



Gerald W. Melancon, Chairman