

Minutes of Meeting  
Louisiana Cemetery Board  
May 7, 2010

The regular meeting of the Louisiana Cemetery Board was held May 7, 2010, 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  
Shelly M. Holloway, Secretary/Treasurer  
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

Also present at the meeting were Michael D. Boudreaux, New Orleans Archdiocesan Cemeteries, New Orleans, Louisiana; Bill Wimberly, Mark Russell, and Nikki Dicapò Deville, Resthaven Gardens of Memory, Baton Rouge, Louisiana; Bob Lomison, President, Forest Park East Associates, Inc. d/b/a Forest Park Cemetery & Forest Park West Associates, Inc., d/b/a Forest Park West Cemetery, Shreveport, Louisiana; Debbie Holmes, Argent Trust, Ruston, Louisiana; Paul Raymond, Acme Mausoleum Corporation, New Orleans, Louisiana; and Jimmy Patin, Greenwood Memorial Park, Inc., Pineville, Louisiana.

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

St. Pius X Roman Catholic Church d/b/a St. Pius X Cemetery, Crown Point, LA –  
Request for extension of Building No. 5.

Mr. Fauchaux recused himself from this topic.

The Director advised the date of first sale for this pre-construction sales program was in May 2004. The Board previously granted a one-year extension on the completion date to

May 2010, for delays relating to Hurricane Katrina. The current extension request is due to weather related construction delays.

Mr. Boudreaux addressed the Board stating this cemetery is located in a low-lying area of Jefferson Parish. He provided photographs of the cemetery that showed how the cemetery and the construction site are affected by tidal surges. Due to inclement weather this winter a special road was constructed to access the area. However, recently strong southeast winds have flooded the cemetery and delayed construction. For these reasons, Mr. Boudreaux is requesting a three-month extension to complete construction.

The Director stated Title 8 provides extension, not to exceed one year, may be granted by the Board for reasonable cause. It does not provide for extensions related to Acts of God. However, there is pending legislation to add an Act of God provision to Title 8 to address these issues. Previously, in these circumstances the Board has monitored projects to ensure they are completed as soon as possible.

After discussion, Ms. Leufroy made a motion to have the Director monitor the project to make sure it is completed within the next three months. The motion was seconded by Ms. Holloway and carried, with one recusal.

Chairman Melancon welcomed newly appointed Board Members Anton Wilbert and Charles Fauchaux.

Legacy Funeral Holdings of Louisiana, L.L.C. d/b/a Resthaven Gardens of Memory, Baton Rouge, LA – On-site Examination of Perpetual Care and Merchandise Trust Funds.

The Director reviewed the finding of the December 9-11, 2009 on-site examination, which revealed the cemetery was using the HMIS trusting system. At the time of the examination the system was programmed to trust merchandise and perpetual care sequentially versus proportionally. The system has since been corrected to trust proportionally on all new contract as of January 1, 2010. However, the cemetery is still working on a data fix to capture money owed to the perpetual care trust fund on contracts written prior to January 1, 2010 and still in accounts receivable.

During the examination it was also noted the cemetery is using HMIS for trusting only, and the allocation of interest income within the merchandise trust fund is outsourced and maintained by Access Financial Group, Inc. The merchandise trust fund withdrawals were tested, and the testing yielded a 9% error ratio. In that regard, the cemetery was directed to conduct an internal review of all 2008 withdrawals. Further the cemetery believes the merchandise trust fund is currently over funded by approximately \$585,952.

The cemetery currently has an unfunded liability of approximately \$64,000 relating to bronze memorials in storage at the cemetery. The cemetery has approximately (400) bronze memorials in storage but has not stored or trusted the granite liability associated with the stored memorials. Since the granite has not been timely trusted, we requested the cemetery provide documentation regarding accrued earning on the unfunded trust liability. Further, due to the method of storage and length of time the memorials have been in storage, some of the memorials require refinishing prior to installation. Currently, the cemetery is funding the liability on as needed basis.

Mr. Wimberly addressed the Board and thanked them for the opportunity to appear and address these issues. Mr. Wimberly stated this was Legacy's first examination since purchasing the cemetery. Regarding the HMIS issue, Mr. Wimberly stated the data fix was substantially complete and they would be depositing \$31,120.72 today into the perpetual care trust fund on contracts written prior to January 1, 2010 and still in accounts receivable. There are a few issues relating to contracts written in late December 2009 but they are working on correcting them. Contracts written as of January 1, 2010 are being funded correctly.

Regarding the 2008 withdrawals, Mr. Wimberly stated they have completed their internal review and have found \$24,051.92 withdrawn in error. Supporting data will be provided to the Board for review and testing. Once the Board confirms the finding of the internal review, they will refund the withdrawals made in error, as well as any interest and unearned interest on the withdrawals made in error.

Regarding the granite liability, Mr. Wimberly stated they were going to trust the granite liability but was unclear regarding the calculation of interest and requested guidance from the Board.

Chairman Melancon asked if they were aware of this liability when the cemetery was purchased three years ago. Mr. Wimberly stated they became aware of the liability after the purchase of the property and they have been working on trying to determine the liability. Chairman Melancon stated they could store the marker or trust the liability. Chairman Melancon stated in his opinion, if they trust, they could trust at 70% of today's price and no interest would be due.

The Director stated the Board could only requires the percentage of the gross sales price received as provided by law. However, the purpose of the trust is to insure the liability is properly funded in the future. Since the deposits were not made timely, and calculation of interest is such a difficult task it may be better, if the cemetery agrees, to trust 70% of today's price into trust to insure the liability properly funded. Mr. Wimberly stated they would consider their options.

There was a discussion regarding the refinishing of memorials in storage and it was decided there was no unfunded pre-need liability under Title 8 regarding the refinishing of the memorials.

Regarding the over funding issue, Mr. Wimberly stated they were not prepared to address this issue and requested this matter be deferred until the November 2010 meeting. The Board agreed.

The Board thanked Mr. Wimberly and his staff for their attendance and participation.

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 before the Board for the Forest Park properties, the Director stated the on-site examination of Forest Park in October 2008 revealed several violations of Title 8, including delinquent deposits owed to the perpetual care and merchandise trust funds of Forest Park Cemetery and Forest Park West Cemetery. At the May 22, 2009 meeting the Board ratified a Consent Agreement with Forest Park addressing the violations, and agreeing to a payment schedule for the payment of delinquent deposits. The Director stated that currently, all deposits to the perpetual care and merchandise trust funds of Forest Park are current with the exception of some outstanding deposit reconciliation questions that arose after the annual reports, from both the cemetery and trustee, were brought current. The Director reported that she is working with the accountant for Forest Park and should have the questions resolved in the near future.

Shortly before the November 6, 2009 meeting, the Board became aware of withdrawals by Forest Park from their perpetual care trust funds, which were in violation of Title 8. Forest Park re-deposited all funds withdrawn from their perpetual care trust funds in violation of Title 8, prior to the November 6, 2009 meeting. At the November 6, 2009 meeting the Board directed the Director to work with Forest Park and to gather information regarding what happened to the funds once they were withdrawn from the perpetual care trust funds of Forest Park Cemetery and Forest Park West Cemetery. Copies of correspondence from Forest Park dated January 20, 2010, with attachments, were provided to the Board addressing how the funds were utilized and proposing a remediation plan to address the violations.

Mr. Lomison thanked the Board for allowing him to appear and address this issue. Mr. Lomison stated that all funds withdrawn from the perpetual care trust funds were transferred into the operating accounts of Forest Park Cemetery and Forest Park West Cemetery and used for operating expenses. He further stated that none of the funds were used for the operation of properties in other states. Forest Park has calculated the income and gains that would have been realized had the funds not been withdrawn and propose to deposit those funds back into the perpetual care trust funds, as follows: Forest Park Cemetery \$41,000 and Forest Park West Cemetery \$43,000. Additionally, Forest Park proposes to pay the Board a fine for the violations of \$6,000 per cemetery, for a total of \$12,000, and to pay any additional examination fees due.

The Director stated, pursuant to the Consent Agreement, the Board already charged and the cemetery already paid the maximum examination fee of \$500 per trust for a total of \$2,000. Title 8 does provide that the full cost of the examination may be assessed if irregularities are found, however, it would be difficult to determine the exact number of hours worked on the examinations.

Further, the Director provided the quarterly report received from Forest Park addressing the outstanding maintenance issues. Ms. Holloway asked if there were any updates on the maintenance issue for the Chapel of Peace since a meeting was scheduled with the engineer, Larry Jones on April 15, 2010. Mr. Lomison stated they were awaiting the final report from Mr. Jones that will include bids from vendors for the proposed work. Regarding the Garden of Roses Mausoleum, Mr. Lomison stated the couch crypt fronts have been replaced and there are working on the engraving of the new crypt fronts.

Chairman Melancon asked Mr. Lomison, if the Board approved the proposal, how long would he need to repay the income and gains in the perpetual care trust funds and any fines. Mr. Lomison stated due to the volatility of the market he would request the Board allow 90 days from the signing of any amended Consent Agreement.

After discussion of the violations and the law, Ms. Holloway made a motion to amend the Consent Agreement to provide for the payment of income and gains to the perpetual care trust funds within 90 days of signing an amended Consent Agreement; payment of fines to the Board immediately, as proposed and agreed to by the cemetery authority; authorize staff and counsel to prepare a written amendment to the Consent Agreement; and authorize the Chairman to sign the written amendment to the Consent Agreement, and do whatever else is necessary to effectuate the motion and the amendment to the Consent Agreement. Ms. Leufroy seconded the motion and a roll call vote was taken. Ms. Leufroy – yeas; Ms. Patin – yeas; Mr. Wilbert – yeas; Ms. Saenz – yeas; Mr. Fauchaux – yeas; Ms. Holloway – yeas; and Mr. Melancon – yeas. The motion carried.

Mr. Lomison thanked the Board for their consideration.

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

Since copies of the Minutes of Meeting, held November 6, 2009, 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 6, 2009 meeting as presented. The motion was seconded by Ms. Patin and unanimously approved.

**Report of Officers**

The Secretary/Treasurer, Ms. Holloway asked the Director to review the financial statements of the Board.

The Director reviewed the Statement of Operations for year ending December 31, 2009; Cash & Investments as of December 31, 2009; the Statement of Operations January through April 2010; Cash & Investments as of April 30, 2010; the Budget vs. Actual January through April 2010; and the 2010 Proposed Budget Amendment. After review and discussion, Ms. Leufroy made a motion to accept the financial statements and 2010 Proposed Budget Amendment as presented. The motion was seconded by Mr. Wilbert and unanimously approved.

Ms. Mize stated, according to the cover letter from the auditor the Attestation Questionnaire needs to be adopted by the Board. The Director became aware of a situation late yesterday afternoon in connection with the Ethics presentation that may possibly require a different answer to the first question under the section of the Attestation Questionnaire entitled Code of Ethics for Public Officials and Public Employees and will probably require a written explanation to be attached. The Board could adopt the Attestation form and authorize the Executive Committee to approve the final answer to that question and the written explanation, because the audit is scheduled prior to the next meeting. The Director stated the audit was scheduled to take place in the next ten days to two weeks.

Ms. Saenz stated that after the Ethics presentation yesterday it occurred to her that as the former Director of Save Our Cemeteries she was hired by Save Our Cemeteries to raise the sponsorship funds for a race, and the host of the race is Stewart Enterprises meaning it's at their property and they manage the collection of the sponsorship dollars and then they write the check to Save Our Cemeteries at the end. The contract that I entered into to do this fund raising effort for Save Our Cemeteries was with Stewart Enterprises. A small contract for a small amount of money but technically it could be considered an ethics violation. I did no cemetery authority related work that would interfere with the regulatory work that the Board does, but I felt that it needed to be disclosed in an honest manner. So my ethics report that I'm going to be submitting by the 15<sup>th</sup> will have a clear explanation, and that explanation will also be provided to the Board so they can offer it up with this statement. We're not sure if it is a violation or not.

Chairman Melancon said we couldn't answer the question because it's up the Ethics Board to determine whether or not there has been a violation.

The Director stated as employees of the State, she and Ryan Seidemann are required by law to disclose to the Ethics Board if we are aware of any potential violation.

After discussion, Ms. Leufroy made a motion to adopt the Attestation Questionnaire without answering the first question under the section of the Attestation Questionnaire entitled Code of Ethics for Public Officials and Public Employees and just stating "see

) attached”, and authorizing the Executive Committee to approve the attachment. Mr. Fauchaux seconded the motion and it carried. Ms. Saenz recused.

**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.

Woodlawn Mausoleum, 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.

) Old Mt. Olive Baptist Church d/b/a The Methodist Mt. Olive Baptist Cemetery, Grosse Tete, 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.

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.

) 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.

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.

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 incomplete and reviewed the outstanding documentation needed to complete the application.

Tag Services, L.L.C. d/b/a Chapelwood Memorial Gardens, Vivian, LA – Pending Application for Certificate of Authority for a change in ownership. 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.

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.

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.

City of Springhill d/b/a Springhill Memorial Cemetery, Springhill, 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.

New Orleans Katrina Memorial Corporation d/b/a Katrina Memorial, New Orleans, LA – Pending Application for the establishment of a Cemetery Management Organizations. The Director advised the Application for Cemetery Management Organization is

complete and has been forwarded to the Special Counsel to the Board; Ms. Mizze, but additional documentation is needed prior to approval.

The Director reviewed the requests for a waiver of late fees from the following: Sacred Heart Roman Catholic Church d/b/a Sacred Heart Cemetery, Port Barre, LA; Congregation of St. Mary False River Roman Catholic Church d/b/a St. Mary's Cemetery, New Roads, LA; and Congregation of St. Mary False River Roman Catholic Church d/b/a St. Francis Cemetery, New Roads, LA. After discussion and review of the information presented, Ms. Holloway made a motion to grant the waiver of the late fees for the above captioned cemeteries. The motion was seconded by Ms. Leutfroy and unanimously approved.

The Director advised the following cemeteries have not renewed their Certificate of Authority for 2010: Arcola Roseland Cemetery Association d/b/a Arcola Roseland Cemetery, Roseland, LA; and City of Westlake d/b/a Magnolia Cemetery, Westlake, LA. After discussion Ms. Leutfroy made a motion to have Assistant Attorney General, Ryan Seidemann, send letters to each cemetery regarding their failure to renew their Certificate of Authority for 2010. The motion was seconded by Ms. Patin and unanimously approved.

Stewart Enterprises, Inc., New Orleans, LA – Request for reimbursement of overpayment of 2010 Renewals. The Director stated Stewart Enterprises made an error in reporting the interment in their cemeteries for 2009, which resulted in an overpayment of the fees for the 2010 Renewal Applications for Certificate of Authority for each of their cemeteries. The Director reviewed the revised interment numbers and stated they were requesting refunds as follows: Lake Lawn Park - \$6,462; Metairie Cemetery - \$5,994; Mt. Olivet - \$4,176; St. Bernard Memorial Gardens - \$2,754; and St. Vincent de Paul - \$900.

After discussion, Mr. Wilbert made a motion to refund the overpayment of interment fees for the 2010 renewal application as requested. Ms. Leutfroy seconded the motion and it carried. Ms. Saenz recused.

Gilbert Memorial Park, Baton Rouge, LA – Operating without a license. Mr. Seidemann gave a brief history of the cemetery for the new Board Members, and a summary of the conditions found in a recent site inspection. Further he stated there in no further regulatory action the Board can take in this matter. The cemetery does not have a current Certificate of Authority to revoke or suspend. The Board has general authority under Title 8 to enforce the provision of Title 8, and at this point that enforcement would be

something that would go through the Attorney Generals Office as statutory counsel for the Board. The Board has previously given authority to the Attorney Generals Office to take whatever action they deemed appropriate and necessary. Mr. Seidemann stated the investigation by his office is ongoing and they are exploring all options available.

Azalea Rest, Inc. d/b/a Azalea Rest Cemetery, Zachary, LA – Status Report regarding Perpetual Care Trust Fund investments.

The Director advised the perpetual care trust funds previously held in the Stanford bankruptcy were released in January 2010, and deposited into the Azalea Rest Cemetery Irrevocable Trust. Once the perpetual care trust fund was whole, it rendered the escrow account in the name of Azalea Rest and the Board unnecessary, and the funds were released.

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 the current owners of the cemetery believe the previous owners of the cemetery sold approximately (73) to (106) pre-need vaults and (2) pre-need openings and closings contracts. At the November 6, 2009 meeting the Board determined False River Memorial Park must bring the pre-need vault liabilities into compliance with Title 8 within twelve months, purchasing and storing one fourth (1/4) of the pre-need vaults needed every quarter, and must reimburse the pre-need opening and closings contracts or assign the contracts to a local Funeral Home.

The Director stated the cemetery has not purchased any pre-need vaults as directed by the Board, and reviewed correspondence and e-mails between the Board's office and Blake Alfortish since the November 9, 2009 meeting. The cemetery is proposing that in order to make sure that the cemetery always has vaults to provide for pre-need liabilities, they keep 10 vaults in stock at all times. Blake Alfortish could not attend today's meeting because it conflicted with scheduled events related to his wedding.

Mr. Faucheaux stated that he met with Blake Alfortish and there is some questions regarding the reliability and accuracy of the old cemetery records regarding the pre-need liabilities. After discussion and review of the law, Mr. Faucheaux made a motion that the cemetery conduct an internal review of all pre-need liabilities and report their finding within (60) days; have the Director audit the findings of the internal audit; and have Mr. Alfortish appear at the next Board meeting if there are any unfunded pre-need liabilities. The motion was seconded by Ms. Leufroy and unanimously approved.

Forest Lawn Memorial Association, Inc. d/b/a Forest Lawn Memorial Park, Ball, LA – Status Report regarding transfer of Merchandise Trust Fund.

The Director gave a brief history of this issue for the new Board Members. At the November 9, 2009 meeting the Board directed the prior trustee, Regions Bank, to transfer \$79,098.60 to the successor trustee Independence Trust Company ITC, and leave the balance with Regions until the dispute between the previous owner, SCI Louisiana Funeral Services, Inc., and the purchaser, Forest Lawn Memorial Association, Inc., was resolved. However, if the dispute was not resolved (30) thirty days prior to the May 2010 meeting, the balance of the money must be transferred to the successor trustee, ITC.

The Director advised \$79,098.60 was transferred to ITC on December 3, 2009. Further, the dispute between the parties has not been resolved and the remaining balance, \$125,688.62, of the merchandise trust fund was transferred to ITC on April 27, 2010.

Beau Pre' Memorial Park, Inc. d/b/a Beau Pre' Memorial Park, Jeanerette, LA – Status Report regarding Internal Revenue Service Tax Notice against Merchandise Trust Fund.

The Director gave a brief history of this issue for the new Board Members. The current trustee of the merchandise trust fund, Regions Bank, hired legal counsel to address the issue with the IRS and billed the trust approximately \$7,175 in legal fees. The IRS Tax Notice against the Beau Pre' merchandise trust fund has been resolved. Further, the prior trustee, Argent Trust, and the current trustee, Regions Bank, have agreed to share the cost of the legal fees and will reimburse the trust fund of Beau Pre' for the legal fees incurred.

Additionally, the other cemetery properties involved with the consolidated tax return which was the subject of the tax notice have received a tax bill for their proportionate share of taxes owed, and the trustees of those funds are in the process of requesting a waiver of all penalties and interest due.

Evangeline Memorial Park Incorporated d/b/a Evangeline Memorial Park, Ville Platte, LA – On-site Examination of Perpetual Care Trust Fund.

At this time there was a general discussion regarding the hearing process and conducting the deliberations in open session versus executive session. Ms. Mize pointed out the additional cost incurred by having the deliberation in open session, which, in most cases, is paid by the licensee. Mr. Seidemann stated he represented several other Boards that conduct their administrative hearing and litigation deliberations in executive session, closed to the public, and off the record. The main purpose is to allow free and frank discussions of the issues. After discussion, the Board determined that deliberations for future Administrative Hearings would be conducted in executive session.

Ms. Leufroy made a motion to adjourn for lunch at 12:05 P.M. The motion was seconded by Mr. Wilbert and unanimously approved.

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

The Director stated during the examination it was determined ownership certificates for pre-need vault contracts stored with Vantage Vaults were not in the name of the contract beneficiary as required by Title 8. The cemetery was reassigning ownership certificates in house, without officially reassigning the certificate of ownership with Vantage Vaults. Since the November 9, 2009 meeting Lafayette Memorial Park Cemetery has redeemed the vaults not in the name of the contract beneficiary and is storing the inventory at the cemetery. A list was provided to the Board outlining which pre-need vault contract in storage at the cemetery covers.

Holy Mary Mother of God Cemetery, Inc. d/b/a Holy Mary Mother of God Cemetery, Lafayette, LA – Status Report regarding On-site examination of Perpetual Care Trust Fund.

The Director gave a brief history of this issue for the new Board Members. At the November 6, 2009 meeting the Board determined Mr. Delhomme must cease selling life insurance policies with Holy Mary Mother of God Cemetery as beneficiary, which is in violation of Title 8. Further, Mr. Delhomme needed to find a solution for the existing policies, which removes Holy Mary Mother of God Cemetery as beneficiary and complies with Title 8, and other applicable laws. The Director advised that in a conversation with Mr. Delhomme this week, he indicated he needed an additional (60) days to change the beneficiaries on the existing insurance policies.

After discussion, Ms. Leufroy made a motion requiring the beneficiaries be changed within (60) days, or Mr. Delhomme must appear before at the November 5, 2010 meeting. The motion was seconded by Mr. Fauchaux and unanimously approved.

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

The Director gave a brief history of this issue for the new Board Members. At the November 6, 2009 meeting the Board requested the Director expand the number of contracts sampled to verify delivery of merchandise within the provisions of Title 8.

Further, the Board delegated the Executive Committee to direct correction of errors or further investigation. The Director advised that additional sampling was conducted on December 21, 2009 and no exceptions were noted. All errors noted in the original sampling have been cleared with the exception of one, and the Executive Committee is awaiting additional information from the cemetery on this matter.

The Director stated the cemetery has also requested information from the Board regarding what steps needed to be taken to withdraw funds from their merchandise trust fund on those pre-need contracts that have been delivered. Pursuant to a Court Order, Restlawn Park Cemetery cannot sell pre-need merchandise or services nor can they withdraw funds from their merchandise trust fund when a pre-need contract is delivered. Restlawn would like to withdraw money from their merchandise trust fund on serviced contracts to fund the construction of a new mausoleum.

Dennis Flynn, Inc. d/b/a Parklawn Memorial Gardens, Hammond, LA – On-site Examination of Perpetual Care Trust Fund.

The Director reviewed the findings of the on-site examination, which revealed the cemetery was delinquent in their perpetual care deposits and pre-need storage of granite for bronze memorials in storage at the cemetery. Since the examination, the perpetual care deposits have been made. No information has been provided regarding the Boards request for information regarding the storage of pre-need bronze and granite.

After discussion, Ms. Leufroy made a motion that the information regarding the storage of pre-need bronze and granite be provided to the Board within (60) days, and all pre-need storage must be brought current, (30) days prior to the next meeting; or a representative of Parklawn must appear at the November 5, 2010. The motion was seconded by Ms. Patin and unanimously approved.

Rose Memorial Park Cemetery d/b/a Rose Memorial Park, Hammond, LA – On-site examination of Perpetual Care Trust Funds.

The Director stated the cemetery currently has two perpetual care trust funds, the first is a grandfathered trust where the cemetery acts are their own trustee and the second is with an institutional trustee. The Director reviewed the finding of the on-site examinations, which revealed the cemetery was delinquent in their perpetual care deposits to both trust funds, and the investments (certificates of deposits) of the grandfathered perpetual care trust fund were in the name of the cemetery authority and not the name of the perpetual care trust fund. Further, during the examination, the cemetery advised there were considering merging the two perpetual care trust funds into one trust that would stay with an institutional trustee. Since the examination, the perpetual care deposits in both trust funds have been made.

After discussion, because perpetual care trust funds should not be commingled with the assets of the cemetery, the Board recommended the Director send a letter requesting copies of all of the certificates of deposits in the grandfathered trust showing the name has been changed to Rose Memorial Park Cemetery Perpetual Care Trust Fund.

Woodlawn Park Holdings, Inc. d/b/a Woodlawn Park Memorial Cemetery & Mausoleum, Westwego, LA – On-site Examination of Perpetual Care and Merchandise Trust Funds.

The Director reviewed the findings of the March 9, 2010 on-site examination, which revealed the cemetery was using the HMIS trusting system. At the time of the examination the system was programmed to trust merchandise and perpetual care sequentially versus proportionally. Further the examination revealed: perpetual care and merchandise deposits were not current pursuant to law; the cemetery was not depositing perpetual care on mausoleum sales and free space; cemetery deeds do not provide for perpetual care; the annual merchandise trust fund report was delinquent; internment records were not correct pursuant to law; and an examination fee is due. To date, the cemetery has not responded to the findings of the examination.

After discussion, Mr. Fauchaux made a motion that all violations be brought current, (30) days prior to the next meeting, or Mr. Davis must appear at the November 5, 2010. The motions was seconded by Ms. Leufroy and unanimously approved.

Westlake Memorial Park, Inc. d/b/a Westlake Memorial Park, Westlake, LA – On-site Examination of Perpetual Care Trust Fund.

The Director reviewed the findings of the March 24, 2010 on-site examination, which revealed the cemetery was delinquent in their storage of pre-need vaults and granite. To date, no information has been provided regarding the Boards request for information regarding the storage of pre-need vault and granite.

After discussion, Ms. Leufroy made a motion the information regarding the storage of pre-need vaults and granite be provided to the Board within (60) days, and all pre-need storage must be brought current, (30) days prior to the next meeting, or a representative of Westlake must appear at the November 5, 2010. The motion was seconded by Ms. Holloway and unanimously approved.

Alexandria Garden of Memories, Inc. d/b/a Alexandria Garden of Memories, Alexandria, LA – On-site Examination of Perpetual Care and Merchandise Trust Funds.

The Director advised an Administrative Hearing was held in 2008 and pursuant to the Order issued, the Certificate of Authority issued to Alexandria Garden of Memories (AGM) is suspended with the exception of at-need sales and operations until AGM provides satisfactory written proof to the Board of compliance with the provision of Title 8 and the Rules and Regulations of the Board. Correspondence has been sent to AGM from the Board on June 18, 2008, and the Attorney General's Office on June 11, 2009, regarding non-compliance with the Board's Order.

The Director reviewed the findings of the April 12, 2010 on-site examination. Gross receipts on burial spaces and pre-need merchandise and services could not be verified because of the lack of bookkeeping records maintained by the cemetery. Copies of the receipts books covering January 1, 2008 through October 15, 2008 were provided, but additional information is needed to complete the examination. The cemetery has made some deposits covering 2008 sales, but we cannot determine if the deposits made are adequate to cover gross receipts because of the incomplete bookkeeping records. Further the examination revealed: the annual perpetual care and merchandise trust fund reports are delinquent; repairs are needed to the Mausoleum; the corporation is not in good standing with the Secretary of State; and the documentation is needed to complete the Application for Certificate for the change in ownership. The Director stated once all of the receipts are received it will take a considerable amount of time determine receipts on burial spaces and pre-need merchandise and services, and for that reason an on-site examination fee has not been assessed.

Mr. Fauchaux asked if the results of an Administrative Hearing have the effect of law. Mr. Seidemmann stated yes, and the next step would be to get a Court Order. The Director suggested the reconciliation of the 2008 receipts should be completed to document any pre-need sales in violation of the Board's Order, prior to any court action.

After discussion, Mr. Fauchaux made a motion the Director continue to work or the 2008 and 2009 receipt to substantiate whether or not pre-need sales have been made in violation of the Board's Order and require Mr. Claiborne attend the November 5, 2010 meeting. The motion was seconded by Ms. Leufroy and unanimously approved.

Greenwood Memorial Park, L.L.C. d/b/a Greenwood Memorial Park, Pineville, LA – On-site Examination of Merchandise Trust Fund

The Director reviewed the findings of the April 13, 2010 on-site examination, which revealed the cemetery was delinquent in their storage of pre-need vaults and liners, but the required inventory was on order.

Ms. Patin stated the (25) vaults and (10) liners have been received, and the vault inventory is now current. The cemetery is awaiting the delivery of (10) more liners to bring the liner inventory current. Documentation to support the delivery of the additional

inventory will be provided to the Board. Currently, the cemetery trusts all pre-need sales of vaults and liners.

Kramer Development, Inc. d/b/a Alexandria Memorial Gardens, Alexandria, LA – On-site Examination of Merchandise Trust Fund

The Director reviewed the findings of the April 15, 2010 on-site examination, which revealed the cemetery was delinquent in their storage of pre-need vaults, liners, and granite. The Director advised it was her understanding, the cemetery has received a shipment of granite to cover the deficiency and supporting documentation is forthcoming.

After discussion, Ms. Saenz made a motion that all pre-need storage be brought current, (30) days prior to the next meeting, or Mr. Kramer must appear at the November 5, 2010. The motions was seconded by Ms. Leutfooy and unanimously approved.

Northwestern Mutual Wealth Management Company, Milwaukee, Wisconsin – Request to serve as a trustee for cemeteries located in Louisiana.

Ms. Mize stated approximately on year ago, Northwestern Mutual Wealth Management Company (NMWM) requested approval to act as a trustee of cemetery trust funds in Louisiana. The Board has been collecting information to determine if they meet the requirements of Title 8. NMWM is a federally insured Federal Savings Bank and authorized to exercise trust powers. The outstanding question is whether they comply with Title 8 regarding NMWM having an office located in the State of Louisiana. At the November 6, 2009 meeting the Board determined they did not have sufficient information to make that determination. NMWM has now provided evidence that they have designated an Agency Office in Louisiana to the Office of Thrift Supervision. The office is located in this building, 111 Veterans Memorial Boulevard, Suite 940, Metairie, La. If the Board accepts a federally designated office as an office located in Louisiana, then they would be in compliance with Title 8.

After discussion, Ms. Saenz made a motion to accept a federally designated office as an office located in Louisiana. The motion was seconded by Ms. Fauchaux and unanimously approved.

Memorial Park Cemetery, Inc. d/b/a Memorial Park Cemetery, New Iberia, LA – Transfer of Perpetual Care and Merchandise Trust Funds from Regions Bank to IBERIABANK fsb.

Ms. Mize stated Memorial Park Cemetery had three perpetual care trust funds they wanted to consolidate into one trust fund, which required a court Order. Simultaneously they requested Regions Bank resign as trustee, and appointed IBERIABANK fsb as successor trustee. IBERIABANK fsb did not meet the qualification of trustee under Title 8. The problem has since been resolved in that IBERIABANK (Louisiana) has now been appointed successor trustee, and they are in the process of obtaining trust powers as required by Title 8. They anticipate approval to exercise trust powers in less than thirty days. Once the approval is received the trust fund will be at a trustee that meets the qualifications under Title 8.

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

#### **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 2009 Non-Exempt (New/Transfers) #09-502 - #09-503; 2010 Non-Exempt (New/Transfers) #10-001, #10-002, #10-165, #10-498, #10-501; 2010 Non-Exempt (Renewals) #10-003 - #10-164, #10-166 - #10-497, #10-499 - #10-500; 2010 Cemetery Sales Organizations (Renewals) #CSO-10-01 – CSO-10-07; 2010 Cemetery Management Organizations (Renewals) #CMO-10-01 – CMO-10-05; and Exempts (New) #1259 - #1262. The motion was seconded by Mr. Wilbert and unanimously approved.

#### **On-site Examinations performed since last Board Meeting**

The Director stated (22) Perpetual Care and (10) Merchandise examinations have been completed since the last Board Meeting.

#### **Reports of Committees**

The Board was provided a copy of Executive Order No. BJ 2010-6 Expenditure Freeze and memorandum from Assistant Attorney General, Ryan M. Seidemann advising that the Executive Order did not appear to apply to the Board. More specifically, it was his opinion the Order did not restrict the necessary travel and expenditures for on-site investigations or inspections of cemeteries pursuant to the Board's legal duties and obligations. However it was recommended the Board make an effort to minimize daily expenditures in an effort to show good faith.

Tri-State Cemetery Conference, August 15-18, 2010, Orange Beach, Alabama; and North American Death Care Regulators Association (DCRA) Conference – August 27-30, 2010, Montgomery, Alabama. After discussion, Mr. Fauchaux made a motion to approved travel for the Director to attend the Tri-state Cemetery Conference for one day to make a presentation regarding legislation to the Louisiana Cemeteries Association, and to attend the DCRA conference. Ms. Leufroy seconded the motion and it unanimously approved.

The Director reviewed the new appointments to the Board, and stated appointments to the Board's Examination and Inspection Committee, as well as, the Rules and Regulations Committee was needed to fill the vacancies created when Mr. Boudreaux and Ms. Clement were not reappointed. After discussion and a brief description of the Committees functions, Ms. Patin was appointed to the Examination and Inspection Committee.

Status Report – 2010 Legislative Session. The Director reviewed the bills affecting Title 8 this session, and the status of each bill.

#### Old Business

Oak Lane Memorial Park, L.L.C. – Status report regarding conditions on issuance of Certificate of Authority. The Director advised the cemetery began sales in May 2009, and she anticipates conducting an on-site examination of the cemetery in June or July 2010.

Additionally, she met with Mr. Bonfanti on April 27, 2010 regarding the opening of a new garden. A partial release of mortgage on an additional (.48) acres of cemetery property and maps delineating the new garden has been provided. A new mortgage certificate and act of dedication for the new area is forthcoming.

Further, the Director advised the cemetery has made a \$30,000 supplemental initial deposit to their perpetual care trust fund. According to Mr. Bonfanti he wanted to increase the size of the trust in order generate sufficient income to cover the costs associated with the operation of the trust. Sales have exceeded \$500,000 and the cemetery is now drawing against the \$30,000 supplemental initial deposit in lieu of making quarterly deposits as provided for by Title 8 and the Rules and Regulations of the Board. After discussion and review of the law, Ms. Leufroy made a motion to notify Oak Lane that after drawing against the \$30,000 supplemental initial deposits quarterly

deposits must be made in accordance with Title 8 and the Rules and Regulations of the Board, and credit will not be allowed against any voluntary excess contributions. The motion was seconded by Mr. Wilbert and unanimously approved.

Attorney General's Opinion request regarding jurisdiction. A copy of Attorney General Opinion #08-0135 issued November 30, 2009, was provided to each Board Member. Mr. Seidemann stated that if HB 527 by Representative Sam Jones passes we might have to determine whether or not this opinion is still valid.

New Orleans City Cemeteries – Status Report regarding maintenance issues. Mr. Seidemann stated a meeting with the outgoing administration was held in December 2009 and no additional complaints have been received since the meeting, however, some of the problems still exist. Mr. Seidemann stated he would attempt to schedule a meeting with the new administration to address any outstanding issue.

New Business

Public Comment

Executive Session

Since there was no further business, Ms. Leufroy made a motion to adjourn at 4:40 P.M. The motion was seconded by Ms. Holloway and unanimously approved.

  
Shelly M. Holloway, Secretary/Treasurer

Attested To:

  
Gerald W. Melancon, Chairman