

Minutes of Meeting
Louisiana Cemetery Board
October 13, 2022

The regular meeting of the Louisiana Cemetery Board was held October 13, 2022, at 3445 North Causeway Boulevard, Suite 509, Metairie, Louisiana, pursuant to notice. Chairman Melancon called the meeting to order at 9:00 A.M.

Present were: Gerald W. Melancon, Chairman
Marilyn Leufroy, Vice-Chairman
Shelly M. Holloway, Secretary/Treasurer
Carroll W. Suggs, At-Large Board Member
F. Anton Wilbert, Board Member
Sherri S. Peppo, Board Member
Stacey L. Patin, Board Member
Lucy L. McCann, Director
Ryan M. Seidemann, Ph.D., Assistant Attorney General

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Also present at the meeting was Boyd D. Mothe, Jr., Westlawn Cemeteries, LLC., Gretna, Louisiana; Daniel A. Ranson, Gaudry, Ranson, Higgins & Gremillion, LLC., Gretna, Louisiana; Jimmy Patin, Greenwood Memorial Gardens, Pineville, Louisiana; and Jerry W. Sullivan, Sullivan Dupre' & Solouki, LLC, Metairie, Louisiana.

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Public Comment

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The Board interviewed Marta-Ann Schnabel and Kathleen E. Simon of O'Bryan & Schnabel, PLC, New Orleans, Louisiana for the position of Special Counsel to the Board. A copy of Mmes. Schnabel and Simon's resumes were before each Board Member. Mmes. Schnabel and Simon answered questions for Board Members and the Director regarding their experience. The Board thanked Mmes. Schnabel and Simon for their presentation.

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Ms. Suggs made a motion to take the agenda out of order. The motion was seconded by Ms. Patin and unanimously approved.

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New Business

Louisiana Cemetery Board Policies and Procedures revisions and additions - The Director reviewed the proposed amendments and technical revisions to Section 3(E): Americans with Disabilities Act (ADA) Policy and the addition of Section 3(F): Grievance Procedure. After review and discussion, Ms. Suggs made a motion to approve Section 3(E): Americans with Disabilities Act (ADA) Policy as amended and Section 3(F): Grievance Procedure as presented. The motion was seconded by Ms. Peppo and unanimously approved.

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Brief refresher on the Administrative Procedures Act, North Carolina Dental and ex parte communications. Dr. Seidemann addressed the Board and provided a brief summary of the APA laws and jurisprudence regarding and the prior knowledge issues, the *North Carolina Dental* and *ex parte* communications.

Regarding the APA, the Louisiana Supreme Court has said that *ex parte* communications with Board Members are prohibited and that the APA requires fair proceedings and a neutral decision maker. Further, the neutral tribunal has to provide due process to the parties involved. It is the same principal that applies to judges and courts because, as Board Members, you are sitting in a fact-finding position and making conclusions. This principal extends to the simple appearance of complete fairness. Therefore, there should be no communications with the parties or counsel on either side of a dispute. If you are approached by parties or counsel in a dispute then there are two things that should happen. Number one, walk away and number two, contact the Board's general counsel (Special Counsel to the Board) and let them know.

Regarding the *North Carolina Dental* case, this is an anti-trust case related to regulatory boards that are largely composed of industry participants. In this case the United States Supreme Court ruled that it is not enough that a regulatory board has consumer representatives to balance out the industry interests and that industry boards are held to a higher standard of regulatory oversight. Unlike most boards, the Louisiana Cemetery Board has statutory representation by the Attorney General's Office. Boards that do not have statutory representation by the Attorney General's Office are now having to contract with the Attorney General's office under the *North Carolina Dental* case and pay them to review both regulatory promulgations and prosecution matters. The reason for this is that the United States Supreme Court has said there needs to be an uninterested government authority to review matters to ensure there are no anti-trust problems with decisions and actions by regulatory boards. If this oversight is not statutorily provided, the costs are high.

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The Board interviewed Conlee S. Whiteley of Kanner & Whiteley, L.L.C., New Orleans, Louisiana, for the position of Special Counsel to the Board. A copy of Ms. Whiteley's resume was before each Board Member. Ms. Whiteley answered questions for Board Members and the Director regarding her experience. The Board thanked Ms. Whiteley for her presentation.

The Board discussed the candidates and their experience, indicating all of the candidates were qualified to serve as Special Counsel to the Board. After discussion, Ms. Suggs made a motion that the Board contract with Conlee Whiteley of Kanner & Whiteley, L.L.C., to serve as Special Counsel to the Board for a period of two years at a rate of two hundred twenty-five dollars per hour beginning immediately. The motion was seconded by Mr. Wilbert and unanimously approved.

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Executive Session

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

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

Ms. Holloway made a motion to retain Lucy L. McCann after her retirement as a consultant in accordance with Civil Service and LASERS regulations at her current hourly rate on a temporary, part-time basis to ensure an orderly transition. The motion was seconded by Ms. Suggs and unanimously approved.

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Since there was no further business, Ms. Holloway made a motion to adjourn at 10:50 A.M. The motion was seconded by Ms. Patin and unanimously approved.



Shelly M. Holloway, Secretary/Treasurer

Attested To:

Gerald W. Melancon, Chairman


