

## MINUTES

South Carolina Funeral Board

10:00 a.m., April 5, 2001

110 Centerview Drive, Kingstree Building, Room 108

Columbia, South Carolina

Mr. Mike Thornwell, Vice President, of Rock Hill, called the regular meeting of the S. C. Funeral Board to order with a quorum present. Other members participating during the meeting included: Mr. Ward Avinger, Secretary, of Holly Hill; Mr. Sam Halls, of Mt. Pleasant; Mr. John Eggers, of Boiling Springs; Mr. Charles Green, of Charleston; Mr. Clarence Hampton, of Seneca; Mr. Roger Finch, of Honea Path; Mr. Phillip Caulder, of Chesterfield; and Mr. Robert Parks, of Charleston.

Excused absences: Mr. Larry Hendrix, Chairman and Mr. James Adcock.

Staff members participating during the meeting included: Ms. Lou Ann Pyatt, Administrator; Ms. Sharon Dantzler, Deputy General Counsel, LLR-Office of General Counsel; Mr. Charlie Jones, Investigator; Mr. Larry Hall, Investigator; Mr. Bill Whitby, Investigator; Ms. Jackie Carter Administrative Assistant; and Ms. Sandra Dickert, Administrative Assistant.

Mr. Thornwell announced the meeting was being held in accordance with the Freedom of Information Act by notice mailed to The State Newspaper, Associated Press, WIS-TV and all other requesting persons, organizations, or news media. In addition, notice was posted on the bulletin boards at the two main entrances of the Kingstree Building.

### Pledge of Alligence

All present recited the Pledge of Alligence.

### Approval of Minutes for the February 21, 2001 Meeting

Mr. Halls moved the minutes of the February 21, 2001 meeting be approved as presented.

Mr. Eggers seconded the motion, which carried unanimously.

### President's Remarks

Mr. Thornwell noted that Mr. Hendrix would be unable to attend the meeting today. He made no further remarks.

### Administrator's Remarks

Ms. Pyatt noted that Mr. Adcock contacted staff this morning and indicated that he would not be able to attend today's meeting.

### Continuing Education

Ms. Pyatt presented the members, for their information, with an updated list of continuing education classes.

### List of New Licenses Issued

Ms. Pyatt presented the members with information regarding licenses issued since the previous meeting. She further stated that staff has issued five funeral director apprentice

licenses, six funeral director/embalmers apprentice licenses and one embalmer apprentice license. She went on to say two funeral home permits have been issued and that staff has issued licenses to three funeral directors and three funeral directors/embalmers.

#### Report of Approved Routine Change of Managers

Ms. Pyatt advised the board that three routine change of managers had been approved by her.

Ms. Pyatt stated that the investigators' report indicates that the board has received a total of twenty-four official complaints since July 1, 2000. She noted that there are currently four complaints still pending.

Ms. Pyatt noted that the agency has been spotlighting the boards within the agency with a 'Career Close Up' page in The State newspaper. She stated that the Funeral Board was spotlighted on March 6, 2001. She has requested that a copy be provided to the members and noted that the copies would be forwarded when they become available.

#### Advisory Opinions, If Needed, Office of General Counsel

There were no advisory opinions given during the April 5, 2001 meeting.

#### Legislative Update, If Needed, Legislative Liaison Office

Ms. Pyatt stated that Ms. Misty Goldstein would not be here today and noted that she would be leaving the agency effective April 6, 2001.

Ms. Pyatt presented the members with updated amended version of the House bill H-3515. She noted that the bill has been approved by the House and was forwarded to the Senate during the week of March 27th.

Mr. Avinger questioned Ms. Pyatt concerning the license for which Mr. Halls had requested the board members' signature. Ms. Pyatt stated the licenses are not being issued at this time. She noted Mr. Halls has made further recommendations and changes to the license.

#### Old Business

##### Approval of Amended Board Applications

Mr. Parks moved the board accept the amended applications as submitted. The motion was seconded by Mr. Caulder and unanimously carried.

##### Approval of Board Policy Revisions

Ms. Pyatt noted that the board had recommended changes to the policies during the last meeting. She indicated the board now had copies of the Board Policies with those amendments. Mr. Eggers, Chairman, of the Policy committee, confirmed that the recommended changes had been made.

Mr. Halls moved the Board Policies be approved as revised. Mr. Parks seconded the motion, which carried unanimously.

##### Approval of Change of Manager

Cheatham Funeral Home (New Ellenton), #265

*Cheatham Funeral Home (Langley), #575*

Ms. Pyatt stated that at the February 21, 2001 meeting the board approved Isaiah Stokes as temporary manager for both locations of Cheatham Funeral Home. She noted that Mr. Stokes does not meet the residency requirement to become the manager. She further stated that Ms. Bernice Green is now making application for the manager position of both locations of Cheatham Funeral Home. She noted that staff has Ms. Green's SLED report which was favorable.

Mr. Avinger moved the board approve the change of manager application. Mr. Caulder seconded the motion, which was unanimously carried.

*Forest Hills Funeral Home, #598, Jack Stribling*

Ms. Pyatt stated that Mr. Jay Poole's application was denied due to failure to meet residency requirements. She noted that at the previous meeting the board had approved Mr. Jack Stribling as temporary manager. She further stated the board had requested to review Mr. Stribling's full application during today's meeting.

Ms. Pyatt stated Mr. Stribling had been requested to bring an authorization of management from the owners. However, Mr. Stribling has not yet presented that document. She also noted that on the application Mr. Stribling had indicated he had not been arrested or convicted; however, his SLED report indicates charges in 1979, 1991 and 1997.

Mr. Caulder moved the board discuss this matter in executive session. Mr. Parks seconded the motion. Following some discussion regarding Mr. Stribling's SLED report, the board unanimously approved the motion.

New Business

Approval of Apprentice

*Darlene Busby*

Ms. Pyatt stated Ms. Busby is having car trouble and is attempting to get to the meeting at this time.

Request for Approval of New Facility

*Colonial Casket Company*

Ms. Pyatt stated Ms. Vanessa Bartley is requesting approval as manager of this new facility. She further stated the facility is applying for a 'regular funeral home facility'.

Ms. Bartley stated she is not associated with any other funeral home at this time and that she realizes she must be accessible at all times.

Mr. Louin Poston stated the facility is ready with the exception of the embalming table, which is to be installed on April 7, 2001.

Mr. Halls moved the board discuss this matter in executive session. Mr. Parks seconded the motion, which carried unanimously.

Request for Approval of Change of Facility Name and Change of Manager

*Lanford-Pollard Funeral Home, #453 to Dunbar-Kiser Funeral Service, James Donald Kiser*

Mr. Avinger moved the board discuss this matter in executive session. The motion was seconded by Mr. Caulder. Following a brief discussion the motion carried unanimously.

#### Request for Approval of Change of Facility Name

*Rivers Funeral Home to the Ministry of Rivers Funeral Home, Leroy Rivers*

Ms. Pyatt stated the application is complete and in order.

Mr. Halls moved the board approve the application for change of facility name. Mr. Eggers seconded the motion, which carried unanimously.

#### Request for Approval of Reinstatement

*Cory Jermaine Vaughn, FD #2435*

Ms. Pyatt stated Mr. Vaughn indicated he would be present for the meeting and that he would be flying in from New Jersey.

Ms. Pyatt stated Mr. Vaughn completed his continuing education and has submitted all of the appropriate back fees. She further stated his license expired in June 1999. She went on to say the only discrepancy she noted was that he has indicated he has not been practicing funeral service in South Carolina during the time of his expired license, however, his application indicates he has worked at Palmer Memorial Chapel in Sumter from 1992 until the present directing funerals.

Mr. Parks moved the board table this matter until such time Mr. Vaughn appears before the Board. The motion was seconded by Mr. Caulder and carried unanimously.

#### Discussion/Approval of Amendment to Section 38-55-330, Melanie Joseph, Legislative Liaison, South Carolina Department of Insurance

Ms. Joseph presented the members with proposed language the S. C. Department of Insurance would like to submit to the General Assembly. The language would delete the requirement for the board to approve the preneed policies prior to marketing in South Carolina.

Mr. Avinger asked Ms. Pyatt if the board is approving the preneed policies based on the approval of the policy by the Department of Insurance. He is concerned that the preneed plans being presented by out of state companies are being sold by licensed funeral directors.

Ms. Joseph stated the Department of Insurance cannot approve policies from out of state insurance companies. She indicated the agency does conduct audits on these policies and if a problematic issue is found the agency would work toward a resolution.

Mr. Parks suggested the board ask the Department of Insurance to review the current continuing education required for preneed policies.

Mr. Avinger moved the board accept the proposed language as presented by the Department of Insurance. The motion was seconded by Mr. Caulder and unanimously carried.

#### Public Comments

There were no public comments made during the April 5, 2001 meeting.

### Executive Session

Mr. Caulder moved the board take a ten-minute recess followed by executive session to discuss disciplinary matters. Mr. Parks seconded the motion, which carried unanimously.

### Return to Public Session

Mr. Thornwell stated a board member wished to clarify an issue with Colonial Casket Company prior to entering executive session.

### Colonial Casket Company

Mr. Halls questioned Ms. Bartley regarding the name of the facility and opening 'a regular funeral home'. He asked her if it was not deceiving to have 'a regular funeral home' with a name such as Colonial Casket Company.

Mr. Louin Poston stated the facility was initially set up as a retail casket store. He went on to say it was done so after consulting with the agency. He noted that the facility was visited by an inspector and they were informed that LLR had no governing authority over the business. He indicated the business did extremely well and that he felt the agency received a number of complaints from local funeral homes. He further stated the agency re-interpreted the law and again visited the facility with a Cease and Desist Order. He said they are not embarking on setting up the funeral home with a misleading name. He indicated they have already developed marketing, relationships, advertising, bank accounts, letterhead and a number of other things.

Mr. Poston stated the name of the business makes no reference as to whether it is or isn't any less than a funeral home. He noted they would be changing the name at the end of the year and would be incorporating the business at the same time. He indicated that they want people to know that every funeral home has some identity that they market and their marketing identity will be focused on merchandise.

Mr. Avinger asked Mr. Poston about the statement made regarding the agency's interpretation of the law on the facility. Mr. Poston replied the agency must have re-interpreted the law because an inspector visited the facility approximately three days following the initial opening of the facility. He said the inspector indicated there was nothing the agency could do about the facility and that they had every right to open. Approximately two weeks later another inspector came to the facility with a Cease and Desist Order.

Mr. Avinger asked Mr. Poston if he was aware that the current statutes state that a facility has to be licensed to sell merchandise. Mr. Avinger stated Colonial Casket Company was issued a Cease and Desist Order because it was not a licensed funeral establishment selling funeral merchandise.

Mr. Poston stated the Cease and Desist Order does not mention any type of regulatory action by the board or by the agency.

Mr. Halls asked Mr. Poston if he understands, under the present law that he is to know the statute regarding funeral service since he is a licensed funeral director. Mr. Poston replied he knows the statutes as they are interpreted and enforced by those given the authority to

do so. He said he understands the statutes.

#### Approval of Apprentice

*Darlene Busby*

Ms. Darlene Busby appeared before the board at this time.

Mr. Eggers asked Ms. Busby regarding her 'no' answer to the questions regarding being arrested and convicted. Ms. Busby replied she did not purposely attempt to hide anything. She went on to say when completing the application she was under a great deal of stress. She was going through a difficult divorce during that time; however, she now has all of the charges resolved and is now under PTI. She said she was an assistant manager with Bostick Tompkins Funeral Home during 1998.

Mr. Halls moved the board approve Ms. Busby's apprentice application. Mr. Avinger seconded the motion, which carried unanimously.

#### Request for Approval of Reinstatement

*Cory Jermaine Vaughn, FD #2435*

Mr. Cory Vaughn appeared before the board at this time.

Mr. Vaughn stated he is now employed with Continental Airlines and is living in New Jersey. He further stated he assists Palmer Memorial Chapel in funerals, however, there is always a licensed funeral director present. He said he has always been a part time employee and has never been a full time employee with the firm.

Mr. Avinger moved the board approve Mr. Vaughn's request for reinstatement. The motion was seconded by Mr. Hampton and unanimously carried.

#### Executive Session

Mr. Halls moved the board enter executive session to discuss disciplinary matters and seek legal advice. Mr. Eggers seconded the motion, which carried unanimously.

#### Return to Public Session

Mr. Thornwell noted for the record that no votes were taken during the time the board was in executive session.

#### Forest Hills Funeral Home

Mr. Avinger moved the board approve the application for change of facility manager pending the receipt of management authorization from the owner that Mr. Stribling will be the manager and that he does have the authority to bind the corporation. The motion was seconded by Mr. Parks and unanimously carried.

#### Lanford-Pollard Funeral Home, #453, to Dunbar-Kiser Funeral Service

Mr. Parks moved the board deny the application for change of facility name due to the fact that no licensed person with the name of Dunbar is connected to the business and that the application for change of facility manager, James Donald Kiser, be approved under the facility name of Lanford-Pollard Funeral Home. Mr. Eggers seconded the motion, which carried unanimously.

A brief discussion between Mr. James Dunbar and the board regarding the facility name ensued.

#### Colonial Casket Company

Mr. Caulder asked Ms. Bartley where she is currently employed. Ms. Bartley replied she is not currently employed, however, she conducts contract work with federal government agencies.

Mr. Caulder questioned Ms. Bartley regarding her current address. Ms. Bartley replied her current address is 4926 Baine Street, Columbia, South Carolina. Mr. Caulder asked Ms. Bartley how long she has lived at this address. Ms. Bartley replied she has been at this address for over thirty years.

Mr. Caulder asked Ms. Bartley if the contract employment was in Rockville, Maryland. Ms. Bartley replied affirmatively and indicated the employment was with Health and Human Services.

Mr. Caulder asked Ms. Bartley if she would be available at all times. Ms. Bartley answered affirmatively.

Mr. Caulder asked Ms. Bartley if she has a current South Carolina driver's license or some form of identification to indicate she has been a resident of South Carolina for the past year. Ms. Bartley replied negatively.

Ms. Bartley stated she obtained a Maryland driver's license in 1995 to settle her father's estate. She further stated the estate is still open and that she felt it was easier to have a Maryland driver's license to handle those matters. She indicated the Maryland address is her roommate's address.

#### Executive Session

Mr. Caulder moved the board enter executive session to seek legal advice in this matter. The motion was seconded by Mr. Avinger and unanimously carried.

#### Return to Public Session

Mr. Thornwell noted for the record that no votes were taken during the time the board was in executive session.

Mr. Parks moved the board approve the application of the new facility, Colonial Casket Company, pending inspection and that the board deny the approval of the manager application of Vanessa Bartley, that the application is to remain open to the next board meeting pending proof of residency. Mr. Eggers seconded the motion, which carried unanimously. However, for compliance with South Carolina Funeral Law, the board approved a temporary manager license until the residency issue is resolved.

#### IRC Report

Mr. Caulder moved the board approve the IRC Report as presented. The motion was seconded by Mr. Eggers and unanimously carried. The IRC Report is herewith attached and

hereby becomes a permanent part of this record.

#### Consent Orders

Funeral Director #1866/Permit #538

*Funeral Director #2130/Permit #285*

Ms. Dantzler presented the members with consent orders on two funeral directors/facilities for their approval. The consent orders are herewith attached and hereby become a permanent part of the record.

Mr. Parks moved the consent orders be approved as submitted. Mr. Halls seconded the motion, which carried unanimously.

Mr. Caulder stated he had received complaints concerning receiving notice of continuing education classes after the class has been conducted. A brief discussion regarding notification of continuing education ensued.

Mr. Parks stated he had received calls regarding the use of two separate license numbers for dual licenses. Following a brief discussion, Mr. Parks moved the board direct Ms. Pyatt and the agency, with the understanding of an advanced computer system, to explore the feasibility of reasonably re-instituting both license numbers (funeral director and embalmer) in the documenting system. Mr. Caulder seconded the motion, which carried unanimously.

Mr. Thornwell stated he has received a complaint regarding advertising and did not know what to tell the individual. Ms. Dantzler stated the individual should file a complaint for investigation.

#### Adjournment

Mr. Avinger moved the meeting be adjourned. Mr. Caulder seconded the motion, which carried unanimously. The April 5, 2001 meeting of the S. C. Board of Funeral Service adjourned at 1:05 p.m.

The next meeting of the board has been scheduled for 10:00 a.m., June 7, 2001.