

MINUTES

South Carolina Funeral Board

10:00 a.m., October 4, 2001

Board Meeting

Synergy Business Park

110 Centerview Drive, Kingstree Building, Room 108

Columbia, South Carolina

Mike Thornwell, Vice-President, of Fort Mill, called the regular meeting of the S. C. Funeral Board to order at 10:00 a.m., with a quorum present. Other members participating in the meeting included: James Adcock, of Orangeburg; Roger Finch, of Greenville; Charles Green, of Charleston; Clarence Hampton, of Seneca; Gregory Jones, of Greer; Bob Parks, of Charleston; James Strom, of Pelzer; and A. P. Williams, III, of Columbia.

Ward Avinger, Secretary, of Holly Hill, was granted an excused absence.
Phillip Caulder, of Chesterfield, was absent.

Members of staff participating during the meeting included: Sharon Dantzler, Deputy General Counsel, LLR-Office of General Counsel; Sandra Dickert, Administrative Assistant; Dwight Hayes, Interim Administrator; Jeanie Rose, Administrative Specialist; and Bill Whitby, Investigator.

Members of the audience included: William C. G. Allen, Johnny R. Demery, Eddie Harper, Steve Jackson, David McGee, Rick Nelson, Don Nelson, Lou Ann Pyatt, Randy Small, and Isaac N. Wright, Jr.

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 Allegiance

All present recited the Pledge of Allegiance.

Invocation

The invocation was given by Mr. Parks.

Approval of the August 16, 2001 Meeting Minutes

Mr. Parks moved the minutes from the August 16, 2001 meeting be approved as presented. Mr. Adcock seconded the motion, which carried unanimously.

Election of Officers

Mr. Thornwell opened the floor for nominations for president. Mr. Parks nominated Mr. Thornwell for president. Mr. Hampton seconded the nomination, which carried unanimously. Mr. Thornwell was elected president by acclamation.

Mr. Thornwell opened the floor for nominations for vice-president. Mr. Adcock nominated

Mr. Parks for vice-president. The nomination was seconded by Mr. Hampton and unanimously carried. Mr. Parks was elected vice-president by acclamation.

Mr. Thornwell opened the floor for nominations for secretary. Mr. Parks nominated Mr. Greg Jones. Mr. Adcock seconded the nomination, which carried unanimously. Mr. Jones was elected secretary by acclamation.

President=s Remarks

Mr. Thornwell stated he would have an agenda of items he would like to see accomplished during the next year at the next board meeting.

Interim Administrator's Remarks

1. List of New Licenses Issued

Mr. Hayes presented the members, for their information, with a list of new licenses issued. He noted there were three funeral home permits issued since the last meeting.

2. Report of Approved Routine Change of Managers

Mr. Hayes presented the members, for their information, with a report of approved routine change of managers and new funeral homes. He noted that the last report contained a few errors due to the logic on his reporting module in the system. He indicated there were individuals listed who were not to be on that report and apologized for the error. He now has the logic corrected. He continued by saying this report contains routine manager changes as well as new funeral homes and new locations showing the manager that has gone into place. He indicated there have been fourteen routine changes since the last meeting.

3. Report on Renewals

Mr. Hayes stated 498 funeral homes have renewed since the last meeting. However, two funeral homes have not renewed. He noted one of the funeral homes that has not renewed is having problems getting personnel due to the death of the owner and the previous manager. He indicated the business is involved in the estate and the family. He continued by saying this funeral home is not conducting business until the estate is settled. He further stated the other funeral home lost its manager and staff's attempts to contact this funeral home has been met with a recording indicating the phone has been disconnected.

Mr. Hayes stated that 798 dual licensees have renewed, 31 dual licensees have not renewed. He further stated 12 embalmers have renewed and five embalmers have not renewed, 507 funeral directors have renewed, 14 funeral directors have not renewed.

Mr. Hayes stated that staff has mailed letters to all funeral homes and all other licensees with cease and desist orders and consent orders. He further stated staff has appropriately dealt with the funeral homes and will have the consent orders available at the end of the meeting for the president's signature. He continued by saying that many of the licensees live out of state or who have not been practicing even though they have been licensed in the past. He noted that if the licensee can provide staff with a statement that they have not practiced in the profession since their license has expired staff will not insist that they sign a consent order since they are not guilty of any violation. He went on to say many of the consent orders have been returned indicating the individual is deceased or has moved out of

state.

Mr. Parks asked Mr. Hayes how staff would notify the licensees regarding the cut off date of the continuing education videos.

Following a brief discussion regarding the dissemination this information, Mr. Parks moved the board members ask their respective associations to endorse covering the mailing expense of notifying the licensees regarding the cut off date of April 30th for continuing education videos. Mr. Hampton seconded the motion, which carried unanimously.

4. Advisory Opinion, If Needed, Sharon Dantzler, Office of General Counsel
There were no advisory opinions given during the October 4, 2001 meeting of the S. C. Funeral Board.

5. Legislative Update, If Needed, Legislative Liaison Office
There was no legislative update given during the October 4, 2001 meeting of the S. C. Funeral Board.

Action Items

Old Business

There was no old business discussed during the October 4, 2001 meeting of the S. C. Funeral Board.

New Business

1. Request for Approval of New Facility

a. Brooks-Allen Funeral Home

Mr. William C. G. Allen appeared on behalf of Brooks-Allen Funeral Home.

Following review of this application, Mr. Parks moved the board approve the application pending a favorable inspection of the facility. The motion was seconded by Mr. Hampton and unanimously carried.

b. Chandler-Jackson Funeral Home

Mr. Steve Jackson appeared on behalf of the funeral home.

Following review of the application, Mr. Parks moved the board approve the application pending a favorable inspection of the facility. The motion was seconded by Mr. Adcock and unanimously carried.

c. Demery Funeral Home

Mr. Johnny R. Demery appeared on behalf of the funeral home.

Following a brief question and answer period, Mr. Adcock moved the board discuss this matter in executive session. Mr. Jones seconded the motion, which carried unanimously.

d. Haile-Nelson Funeral Home

Mr. Richard Haile Nelson and Mr. Don Nelson appeared on behalf of the funeral home.

Mr. Don Nelson stated they would be closing the old firm and building a new facility with a new name.

Mr. Richard Nelson explained the trespassing conviction on his arrest record to the board. He was unaware it was his responsibility to have his arrest record expunged and indicated his arrest record is currently in the process of being expunged.

Mr. Parks moved the board discuss this matter in executive session. The motion was seconded by Mr. Adcock and unanimously carried.

e. Rees Funeral Home

Mr. Hayes stated he has spoken with Mr. Jack Smalley on several occasions regarding this matter. He indicated this is an issue that is caught in the transition of the funeral law. He went on to say that Mr. Smalley is a South Carolina licensed funeral director and embalmer who lives in Georgia. He further stated Mr. Smalley would like to be the manager of the facility. He continued by saying the proposed legislation changes the board's requirement so that residency is not a requirement to be a manager. He also stated Mr. Smalley has informed him that he hopes to have the facility constructed sometime in spring 2002. He indicated he advised Mr. Smalley to appear before the board and present the issues for the board's consideration. He noted that Mr. Smalley would like to receive preliminary approval to begin construction on the facility.

Mr. Hayes stated Mr. Smalley contacted him this morning and indicated he would be unable to attend the meeting this morning as he has a funeral service. He further stated Mr. Smalley's business partner, Mr. Eddie Harper, would be appearing on behalf of the funeral home.

Mr. Harper stated Mr. Smalley lives fourteen miles from the proposed new facility.

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

2. Request for Additional Facility

a. Wright Chapel, Rock Hill

Mr. Isaac N. Wright, Jr. appeared on behalf of the funeral home.

After reviewing the application, Mr. Parks moved the board approve the application for Wright Chapel pending a favorable inspection of the facility. The motion was seconded by Mr. Hampton and carried unanimously.

3. Request for Approval of Reinstatement

a. David Clifton Reece McGee, Jr.

Mr. David Clifton Reece McGee, Jr. appeared on his own behalf.

After reviewing the application, Mr. Parks moved the board approve Mr. McGee's reinstatement application. Mr. Adcock seconded the motion, which carried

unanimously.

b. Randy Small

Mr. Randy Small appeared on his own behalf.

After carefully reviewing this application, Mr. Parks moved the board approve this application. Mr. Jones seconded the motion, which carried unanimously.

Discussion Item

The board briefly discussed notifying the licensees regarding the cut off date for the continuing education videos.

Public Comments

Ms. Barbara Huell of Wilds Funeral Home

Mr. Hayes stated Ms. Huell indicated she would be at the meeting today. He then briefed the board regarding Ms. Huell's complaint. He indicated Ms. Huell's son failed, by oversight, to renew his license. He noted that Ms. Huell renewed her license and the license of the funeral home prior to June 30, 2001. He further stated that once the cease and desist orders and consent orders were mailed she contacted him and indicated she thought a courtesy notice should have been sent prior to sending the cease and desist order and consent order. He continued by saying Ms. Huell's son has signed a consent order in this matter, although she was not happy about doing so.

Mr. Hayes stated Ms. Huell wanted to express her displeasure in this matter to the board.

Mr. Parks stated the board has discussed this subject before and moved the board respond with regret to Ms. Huell in regard to this matter and explain the board's position and posture in that regard. Mr. Hampton seconded the motion, which carried unanimously.

Recess

The board took a ten-minute recess.

Executive Session

The board entered executive session to discuss disciplinary matters.

Return to Public Session

The board returned to public session to further question Mr. Demery regarding the felony charge filed against him.

Mr. Parks questioned Mr. Demery regarding his activities in 1997 that led to a felony charge. Mr. Demery stated he had been burning debris and started the fire with gasoline and the fire got out of hand. He was unaware of the law indicating that he had to obtain a permit prior to burning and was charged with burning debris without a permit.

Ms. Dantzler stated Mr. Demery's arrest record shows that he was convicted with a suspension that appears to be probation for three years. She asked Mr. Demery if he has completed that probation. Mr. Demery replied affirmatively and indicated it was completed

approximately one and one-half years ago.

Ms. Dantzler asked Mr. Demery if he had the release documents indicating he had completed the probation and been released. Mr. Demery replied he received a form from his probation officer.

Mr. Green asked Mr. Demery if the records would reflect his statement in this incident if the board summoned those records pertaining to this instance. Mr. Demery replied he was not sure, although the records should indicate what he has just informed the board.

Mr. Parks asked Mr. Demery about his current driving record. Mr. Demery stated that some tickets were issued to his vehicle in 1990. He was charged with driving under suspension and paid the fine. He was on his way to Columbia and was stopped for speeding at which time the officer informed him his license was still under suspension. He indicated that because the state failed to notify him of a reinstatement fee he questioned one of the local offices why this happened. He said they informed him they had no record of the incident and he was charged with a second offense.

Mr. Parks asked Mr. Demery if his driver's license is in good standing at this point. Mr. Demery replied affirmatively.

Return to Executive Session

The board returned to executive session at this time to further discuss this matter.

Return to Public Session to Report on Executive Session

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

Demery Funeral Home

Mr. Parks moved the board grant Mr. Demery a license pending receipt of a statement from the Pardon, Probation and Parole Board regarding Mr. Demery's release from probation and the original incident report documentation stating the facts of the case. The motion was seconded by Mr. Green and unanimously carried.

Haile-Nelson Funeral Home

Mr. Hampton moved the board approve this application pending a favorable inspection of the facility. Mr. Williams seconded the motion, which carried unanimously.

Rees Funeral Home

Mr. Parks moved the board grant a permit to Rees Funeral Home for a new facility pending two stipulations: 1) the facility passes the normal inspection and 2) upon completion of the facility the manager, at that point, is in a position to comply with the requirements of the statute as it is enforced at that particular time. He further stated the owners should understand that if they were present at this time the board would not be in a position to grant a permit today. He stated he hopes that the owners involved recognize the risk factor they are taking in this matter. The motion was seconded by Mr. Green and unanimously carried.

Continuing Education

Mr. Thornwell stated Mr. Hayes received a letter on September 14, 2001 from Ms. Erin Casey, Director of Continuing Education. He further stated the continuing education committee initially disapproved this continuing education course because they felt there were still questions that were not finalized concerning the Internet correspondence courses. He said that after reviewing this letter which answered the committee's questions the committee wanted to open the matter to the board for any further discussion. He noted that the committee feels that the sponsor of this course has an avenue of tracking all of the individuals that go through this course on the Internet. He also stated that this sponsor has a second method that allows the board to verify whether or not those continuing education hours have been taken and approved by a particular individual. He indicated this information, he assumes, would be sent to staff. He stated the committee wanted to get the board's opinion on how to fulfill this type of request.

Consent Orders

Mr. Hayes stated the board had previously approved consent orders regarding the funeral homes conducting business without being properly licensed. These funeral homes are:

Gibson Funeral Home, Winnsboro, Alexander Gibson
W. Leon Sherman Mortuary, St. Helena Island, Nancy Sherman
Martin Matthew Smith, McAlister-Smith Funeral Home, Downtown Chapel, Charleston
Zelma Brown, Brown Funeral Home, Greer
Brown Funeral Home, Heritage Chapel, Greenville
Melvin H. Huell, individual licensee
Jeremy L. Bethea, Carolina Funeral Home, Dillon
John B. Tallent, III, individual Licensee
Franklin Hines, Hines Funeral Home, Lamar
Franklin Hines, Hines Funeral Home, Hartsville
William H. Duncan, Carroll Mortuary, Bamberg
Edwin Perry Palmer, Palmer Memorial Chapel, Columbia

He also stated staff has received a consent order from Mr. Larry Varner, Sr. who had appeared before the board at the August 16, 2001 meeting.

Adjournment

There being no further business to be brought before the board, Mr. Green moved the meeting be adjourned. Mr. Adcock seconded the motion, which carried unanimously. The October 4, 2001 meeting of the S. C. Funeral Board adjourned at 1:22 p.m.

The next meeting of the S. C. Funeral Board is scheduled for 10:00 a.m., December 13, 2001.