

MINUTES South Carolina Funeral Board Board Meeting 10:00 a.m., August 15, 2002  
Synergy Business Park 110 Centerview Drive, Kingstree Building, Room 108 Columbia,  
South Carolina

Mike Thornwell, President, of Ft. Mill, called the regular meeting of the SC Board of Funeral Service to order at 10:00 a.m. Other members participating during the meeting included: Bob Parks, Vice President, of Charleston; Gregory Jones, Secretary, of Greer; James Adcock, of Orangeburg; Ward Avinger, of Holly Hill; Phillip Caulder, Jr., of Chesterfield; Roger Finch, of Honea Path; Clarence Hampton, of Seneca; Larry Strom, of Pelzer; and A. P. Williams, III, of Columbia.

Mr. Charles Green, of Charleston was granted an excused absence.

Staff members participating during the meeting included: Sharon Dantzler, Deputy General Counsel, LLR-Office of General Counsel; Dwight Hayes, Administrator; Kent Lesesne, Counsel, LLR-Office of General Counsel; Jeannie Rose, Administrative Specialist; Janet Scott, Administrative Assistant; and Bill Whitby, Investigator.

Members of the audience included: Ashleigh Adcock, Reverend Cornelius Campbell, John Demery, Willie M. Demery, Donna Harper, Walter Howell, Samuel Jenkins, Randy Johnson, Keenan T. Walsh, and Tim White.

Mr. Thornwell announced that public notice of this meeting was properly posted at the S. C. Board of Funeral Service office, Synergy Business Park, Kingstree Building, Room 108 and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act. He also noted that a quorum was present.

Pledge of Alligence All present recited the Pledge of Allegiance.

Invocation Mr. Parks delivered the invocation.

Approval of Minutes for the June 6, 2002 Meeting Mr. Hampton moved the minutes be approved as submitted. Mr. Finch seconded the motion, which carried unanimously.

President's Remarks - Mike Thornwell Mr. Thornwell welcomed all of those present to the meeting. He requested that the election of officers be postponed until since the seating of the new members has not transpired.

Mr. Thornwell asked that the Board consider new dates for working session meetings regarding regulations, which need to be updated.

Administrator's Remarks, For Information - Dwight Hayes Mr. Hayes presented the

members with a list of permits issued to new funeral homes. He indicated three new funeral homes have been licensed since the last meeting. He also presented the members with a list of licenses issued to new funeral directors/embalmers that have been issued since the last meeting. He noted that there have been eighteen licenses issued to funeral directors/embalmers since the last meeting. He then presented the members with a report of managers of new facilities and routine changes of managers since the last meeting. He indicated staff has issued twelve licenses to managers and routine changes of managers.

Mr. Hayes stated 479 funeral homes have renewed their permits and twenty-five funeral homes in an expired license status. He further stated he mailed each of the funeral homes that have not renewed a letter indicating the permits were expired and that action was needed to renew. He also stated the letter indicated that the board, at today's meeting, may authorize staff to send out cease and desist orders as well as consent orders if they have been operating without a license.

Mr. Hayes stated that 797 dual licensees have renewed their licenses, 44 licensees who have not. He further stated that staff has received information from approximately five dual licensees who have indicated that they are not practicing in the funeral industry and may not renew their licenses. He also stated that ten embalmers have renewed their licenses and one embalmer has not renewed his license. He continued by saying that 514 funeral directors have renewed and fourteen funeral directors have not renewed. He proposed to the board that after staff has received its mail on Monday, August 19, 2002, staff prepare a cease and desist order to all of the expired individuals to ensure that there is no misunderstandings of what they should be doing and not be doing. He indicated consent orders would be prepared for those individuals who desire to renew and have been practicing in the interim unlicensed.

MOTION Mr. Parks made a motion, seconded by Mr. Caulder, that the board authorize LLR to proceed with the issuance of cease and desist orders. The motion carried unanimously.

Mr. Parks stated all of the professionals in the funeral industry should attempt to respond to renewing their licenses in a timely manner.

Mr. Hayes presented the members with a proposed memorandum form. He further stated that last year staff mailed a form for self-inspections to all facilities during the renewal season. He also stated that in order to facilitate the renewal process it was determined to wait until after the renewals have been completed and do a separate mailing. He proposed that the facilities be asked to conduct a self-inspection and have the manager sign the form that it is a true and accurate inspection of the facility. He is asking that the self-inspection be conducted within thirty days. He indicated that the purpose of the self-inspection is twofold: staff wants to learn who is not in compliance and staff also wants each funeral home to conduct a self inspection to learn where they stand and allow them thirty days to get everything in order. He noted that in past inspections the funeral homes did not realize they were not in compliance. He said the goal is to get every

funeral home in compliance. He also stated staff hopes to have funding available in the future to hire an inspector. He indicated he is asking the board's approval to send the self-inspection form out.

Mr. Thornwell stated he met with Ms. Rita McKinney prior to the meeting this morning and was informed that Mr. Hayes has been appointed as the Administrator of the Board of Funeral Service.

MOTION Mr. Parks moved the board give the tools to Mr. Hayes and the staff to do what is necessary for the good of the funeral service and give the authorization send the self-inspection form. The motion was seconded by Mr. Williams and unanimously carried.

The board would provide any other necessary wording to the form.

Advisory Opinions, If Needed, Sharon Dantzler, Office of General Counsel Ms. Dantzler stated she has rough drafts of the documents the board has requested. She indicated she would provide the documents when the board has another work session. There were no official advisory opinions given during this meeting.

Legislative Update, If Needed, Legislative Liaison Office Mr. Hayes stated Ms. Maseng, the agency's Legislative Liaison, is planning on working with the board on these projects. He met with Ms. Maseng during the previous week and will attempt to set up times when the board has done its homework on the regulations regarding the new legislation.

Unfinished Business New Facility/Change of Manager Demery Funeral Home, Willie Mae Demery Ms. Willie Mae Demery appeared before the board at this time.

Mr. Hayes stated that the board has dealt with this facility at a prior meeting. He indicated Mr. Johnny Demery had applied to become the manager of this facility, however, due to problems the board denied the facility based on the manager. He went on to say the facility has submitted another application and is asking that Ms. Demery be named as manager. He indicated the application is in order.

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

2. New Facility a. Conway Funeral Services, Inc. Mr. Hayes stated this facility appeared at the June 2002 meeting and the board questioned the ownership as a result of the Articles of Organization. These Articles listed Paula Cribb as a manager rather than as a member of the LLC that was listed as the owner. He also noted that the LLC is different from the name of the funeral home.

Mr. Keenan Walsh appeared before the board at this time.

Mr. Walsh stated that at the time the organization was established he was in mortuary school and was not being considered as the potential manager for the facility. He further stated Ms. Cribb has been handling the administrative work of getting the facility open. He went on to say he spoke with Conway Funeral Services during August 2001 at which time he accepted the company's offer of becoming the facility manager. He indicated that John Schenk, who is located in Colorado, is the attorney handling the company.

Mr. Walsh stated he began serving a two-year apprenticeship at Goldfinch Funeral Home in May 1997. He later moved to Highpoint, North Carolina where he worked at Stewart Enterprises where he also served a two-year apprenticeship while attending school. He did not move his residency to North Carolina during the time he was in school.

MOTION Mr. Caulder moved the board discuss this matter in executive session. The motion was seconded by Mr. Strom and unanimously carried.

New Business Dual License Reinstatement Samuetta V. Marshall Ms. Samuetta V. Marshall appeared before the board at this time.

Ms. Marshall stated she renewed for the year 2000, however, when she attempted to renew for the 2001 license year the application was returned and she was informed that she had not completed her continuing education requirement. She further stated she had taken a class at the Wilbert Vault Company and was able to fax a copy of the list of attendees to staff to verify she had taken a continuing education class.

Mr. Hayes stated staff's records indicate that in June 2000 when Ms. Marshall's renewal application was returned for not having the required continuing education there was communication from Ms. Marshall to Wilbert Vault Company and staff. He indicated that staff contacted Wilbert Vault Company and obtained a list of attendees. Staff has no record of receiving the renewal application back in the office. He noted he was not with the Funeral Board during the time this incident took place. He continued by saying Ms. Marshall was not sent a renewal application in 2001 because her license was expired at that point.

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

Gerald Randolph Johnson Gerald Randolph Johnson appeared before the board at this time.

Mr. Johnson stated he suffered from a brain-stem stroke in 1994 and did not believe he would ever again be able to continue in the funeral industry. He allowed his license to lapse in 1997 and now wishes to reinstate his license to become employed at a facility run by a friend. He is considered disabled and would work on a part-time basis.

Mr. Hayes stated Mr. Johnson has paid all of the fees and is exempt from continuing

education due to his age.

MOTION Mr. Jones moved to accept Mr. Johnson's application. The motion was seconded by Mr. Finch and unanimously carried.

New Facility (Funeral Homes) Harper Embalming Service, Donna May Harper Mr. Hayes stated he has been in contact with Mrs. Harper and her husband in the past regarding some technical issues in the embalming room. He further stated he was unaware at the time they were just talking about an embalming service. He indicated this is a unique situation as Mrs. Harper is making application to open an embalming facility to offer services for several local funeral homes.

Donna Harper appeared before the Board at this time and answered questions from the Board. She indicated she has a developer who would "build to suit" a facility which would be approximately 2,000 square feet and would include a fully functional embalming room and a dressing and cosmetic room. She indicated she would be providing a service to funeral homes (her clients). Once the funeral home has been given permission to embalm a body she would transport the body from the hospital or its location to her facility, perform the embalming process and cosmetic procedures, if necessary, and transport the body to the funeral home. She does not plan to stock caskets; however, she could consider it in the future.

MOTION Mr. Caulder made a motion, seconded by Mr. Williams, that the Board discuss this matter in executive session. The motion carried with a unanimous vote.

New Facility (Retail Casket Store) Rainbow Casket Company, Samuel C. Jenkins Mr. Hayes stated that when Mr. Jenkins submitted his application his license was expired, however, he has since renewed his license and is current.

Samuel C. Jenkins appeared before the Board at this time and answered questions from the Board. Mr. Jenkins stated would be operating the funeral home.

Reverend Cornelius Campbell, owner of Rainbow Casket Company, appeared before the Board at this time.

Mr. Jenkins will serve as manager of the casket store and the funeral home. The casket store is approximately 22 miles from the funeral home.

Reverend Campbell stated that Rainbow Casket Company is a start up business in the Charleston area.

Mr. Finch stated Mr. Jenkins answered 'no' to the question which asks if the applicant has been convicted, however, his SLED report indicates he has been convicted of a crime. The SLED report indicates a bad check violation, which is a misdemeanor. Mr. Hayes

indicated Mr. Jenkins' answer to the question is correct. Mr. Finch apologized for raising the question.

Mr. Strom questioned Mr. Jenkins about who would be the manager of the funeral home. Reverend Campbell stated he is the owner of the funeral home. He further stated he and his partner, Walter Howell, are employed at the funeral home. He indicated he and Mr. Howell have completed the apprenticeship program and will be at the funeral home on a daily basis working with Mr. Jenkins.

Mr. Caulder asked if Mr. Jenkins would be managing the funeral home and the casket store. Reverend Campbell replied affirmatively.

MOTION Mr. Avinger moved this matter be discussed in executive session to seek legal counsel in this matter. Mr. Williams seconded the motion, which carried unanimously.

Port Elsewhere II, d/b/a Forest Lawn Cemetery; Port Elsewhere II, d/b/a Good Shepherd Memorial Park; Port Elsewhere II, d/b/a Springhill Memorial Gardens; Port Elsewhere II, d/b/a Whispering Pines Memorial Gardens Joel Geer and Timothy White appeared before the Board at this time. Mr. Geer stated he believes they have four retail sales outlets pending.

Mr. Hayes stated that all of the information required by statute is contained on the applications. He further stated that the requirement for a licensed funeral director for a retail establishment disappeared from that legislation.

Mr. Jones asked Mr. Geer where the headquarters for Port Elsewhere is located. Mr. Geer stated the headquarters is located in Boiling Springs, South Carolina.

Mr. Parks asked Mr. Geer and Mr. White to explain what they want to do. Mr. Geer stated they would like to sell caskets retail to the general public. Mr. Thornwell asked if they would be selling caskets only. Mr. Geer stated the statute states they may sell funeral merchandise, however, they will be selling caskets only at this time. He indicated there are four locations in and around South Carolina and would be located on the property of cemeteries.

MOTION Mr. Jones moved this matter be discussed in executive session so the Board may seek legal advice. Mr. Strom seconded the motion, which carried unanimously.

Mr. Geer objected to this matter going into executive session. He indicated he didn't feel it was appropriate for the Board to discuss the application in executive session. Mr. Thornwell disagreed with Mr. Geer and stated that the Board does have the right to discuss cases in executive session.

Mr. Avinger stated that the new statute that permits the retail outlets indicates a retail

outlet must be in compliance with 40-19-290. He stated question #19 on the application asks if the applicant has read and understands the South Carolina Funeral Service Law and the Rules and Regulations of the Board. He asked Mr. Geer why this question was answered with "N/A" (not applicable). Mr. Geer stated he believes the question was answered that way because it was under manager information. He indicated he could respond affirmatively and indicated they are willing to understand and comply with the laws of South Carolina.

Mr. Hayes asked Mr. Geer if he would like to verbally amend his application to answer affirmatively to on those retail sales applications. Mr. Geer answered affirmatively.

Discussion Items Update on Probate Judge Round Table Discussion - Bob Parks Mr. Parks stated he and Mr. Thornwell met with the South Carolina Probate Judges several months ago at their annual meeting in Columbia. He went on to say they attempted to bring before them the concerns the funeral directors have regarding issues such as who has primary right of disposal (particularly cremation issue) and what in fact constitutes the term "common law wife". He further stated there are some probate judges who do not have a legal background. He continued by saying the problems the probate system is having across the state is that there are some probate judges who have an extensive legal background and who are willing to address in a forthright fashion the issues that the funeral homes face. However, there are other probate judges that are less inclined to want to make decisions such as this since there is not a substantial case history.

Mr. Parks stated he and Mr. Thornwell presented to the court issues going on within the State and asked that they be attentive and understanding to the issues that are appearing before funeral directors that have never been seen before. He further stated it is their intention to appear before the probate judges at their next meeting.

ICFSEB The Conference Report - F.Y.I. Mr. Thornwell stated the members have a copy of The Conference Report from ICFSEB. He further stated he had mentioned in a previous meeting that the Board should have representation at this conference annually.

News Article on Georgia Crematory Operator - F.Y.I. For their information only, the members were presented with a copy of news article on a Georgia Crematory Operator.

Public Comments There were no public comments made during the August 15, 2002 meeting of the S.C. Board of Funeral Service.

A discussion ensued regarding what right a hospital has to make a funeral home wait approximately two hours before the facility is able to take possession of the remains, even after the family has informed the hospital they are not interested in organ donation.

Mr. Parks stated direct personal calls to him have become fewer since he has become a member of the Board. He further stated that anyone who has a matter or an issue to bring before the Board should contact the Board administrator. He requested that when

the agency receives a complaint there should be some mechanism to respond to the individual and let them know the complaint has been received. Mr. Hayes stated the complainants should be receiving an acknowledgement letter. He indicated he would ensure that the acknowledgement letters are being mailed. Mr. Parks stated he is not implying there is a problem, it is just a request.

Recess The board took a ten-minute recess at 11:25 a.m. and returned at 11:35 a.m.

Executive Session The Board entered executive session at 11:35 a.m.

Return to Public Session to Report on Executive Session Mr. Thornwell noted for the record that no motions were made and no actions were taken during the time the board was in executive session.

Port Elsewhere MOTION Mr. Adcock moved the Board accept the applications as submitted to the Board. He asked if there would be an inspection performed on the facilities. Mr. Thornwell replied affirmatively. Mr. Avinger seconded the motion, which carried with a majority vote. Mr. Jones, Mr. Strom Mr. Parks, and Mr. Caulder voted nay in this vote.

Rainbow Casket Company MOTION Mr. Avinger moved the Board approve the application as presented pending an inspection. The motion was seconded by Mr. Williams and unanimously approved.

Harper Embalming Service MOTION Mr. Parks made a motion, seconded by Mr. Caulder, that the Board deny the application only due to the fact that it does not qualify in any existing class of license. Mr. Jones and Mr. Strom voted nay in this vote.

Demery Funeral Home MOTION Mr. Caulder moved the Board approve this application following an inspection of the facility also a substitution of the embalmer for a currently licensed embalmer. Mr. Finch seconded the motion, which carried unanimously.

Conway Funeral Services, Inc. MOTION Mr. Parks made a motion, seconded by Mr. Avinger and unanimously carried, that this application be denied due to two factors: 1) the lack of proper signatures on the application either by the owner or the corporation designee and secondly evidence of ownership of Conway Funeral Home, LLC.

Samuetta V. Marshall MOTION Mr. Parks made a motion, seconded by Mr. Strom and unanimously carried, that this reinstatement of licensure be approved subject to a fine of \$500 for unlicensed practices in the year of 2001 and applicable renewal fees.

Dismissal Report MOTION Mr. Avinger moved the Board accept the dismissal of case #528, 535, 588, 634, and 660. The motion was seconded by Mr. Parks and unanimously carried.



Consent Orders MOTION Mr. Parks made a motion that the Consent Orders that have been forwarded and provided to the Board in explanation form by the Board Administrator be approved. Mr. Caulder seconded the motion, which carried unanimously.

Mr. Hayes stated he received a call on a situation that appeared in 1995 when the Board issued a Cease and Desist Order against a transportation company engaged in funeral service. He further stated the company wants revisit this issue and sent in information in regards to what the company does. He does not think there is a problem with them at this time. He continued by saying the company sells a plan through funeral homes for transportation of remains. He indicated that should someone be more than 100 miles away from home and meet an unfortunate demise while away, this company offers a service where they contact a funeral home in the area where the demise occurred. They would make the arrangements for that funeral home to provide the services to ship the remains back to a designated funeral home in the home area. He noted the company is working with licensed individuals and facilities on both ends. He clarified that the company makes arrangements public transportation to have the remains transported.

MOTION Mr. Parks moved that a letter be sent to this company advising them that they are attempting to endeavor in a form of capitalism that is outside an arena and attempting to endeavor to be inside an arena they have no business being in. Mr. Strom seconded the motion, which carried unanimously.

Mr. Caulder stated it has been his privilege to serve the past two years to serve with Mr. Thornwell, Mr. Adcock and Mr. Avinger. He further stated he appreciated the opportunity to serve with these individuals and noted their service to the State of South Carolina and the Board.

The Board briefly discussed possible meeting dates for a work session meeting prior to the next meeting. The Board set a tentative meeting for September 12, 2002.

Adjournment The August 15, 2002 meeting of the S.C. Board of Funeral Service adjourned at 2:45 p.m.