

MINUTES

South Carolina Funeral Board

Board Meeting

9:00 a.m., May 25, 2004

Synergy Business Park

110 Centerview Drive, Kingstree Building, Room 108

Columbia, South Carolina

Penn Troy, President, of Mullins, called the regular meeting of the S.C. Funeral Board to order at 10:00 a.m. Other members present for the meeting included: Lee Rhoden, Vice President, of Walterboro; Greg Jones, Secretary/Treasurer, of Greer; Edward Briggs, of Murrells Inlet; Doug Garrett, of Greenville; Bob Parks, of Charleston; Carl Pennington, of Hartsville; Larry Strom, of Pelzer; Tony Tipton, of Greer; and A. P. Williams, of Columbia.

Terry Burnham and John Hazzard were granted excused absences.

Staff members participating during the meeting included: Randy Bryant, Assistant Deputy Director; Sharon Dantzler, Deputy General Counsel, LLR-Office of General Counsel; Sandra Dickert, Administrative Assistant; Dwight Hayes, Administrator; Kent Lesesne, Attorney, LLR-Office of General Counsel; Jeanie Rose, Administrative Specialist; and Bill Whitby, Inspector.

Members of the public attending the meeting included: Gilbert Bostick, Jerome Brown, Jacquine M. Fields, Daniel Guy, Karen Golden, Willie J. McCoy, Glenn Miller, Lloyd Norris, Lou Ann Pyatt, Leroy Rivers, Atu Williams, Tammy Williams, and Allen Wolford.

Meeting Called to Order

Mr. Troy 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.

Pledge of Allegiance

All present recited the Pledge of Allegiance.

Introduction of Board Members and Persons Attending the Meeting

The Board members, staff and members of the public introduced themselves for the record.

Approval of Minutes for the March 30, 2004 Meeting

MOTION

Mr. Pennington moved the Board approve the minutes of the March 30, 2004 meeting. Mr. Briggs seconded the motion, which carried unanimously.

President's Remarks - Penn Troy

Mr. Troy thanked the Board for their work during the year.

Assistant Deputy Director's Remarks - Randall Bryant

Mr. Bryant stated that in February 2004 Ms. Youmans, the agency director, consolidated the agency's investigative units, which would officially become effective July 1, 2004. He indicated the unit would be divided into two areas: (1) business and building related and (2) medically and health related. He noted that 50 investigators would be included in the unit, which would be known as the Office of Investigations and Enforcement. He has assigned Kathy Prince to the funeral program and two other investigators would be assisting her.

Mr. Bryant stated that inspectors would remain with each program. He indicated that a full-time inspector would be hired for the funeral program. He further stated that Mr. Whitby would remain as a part time inspector and that other inspectors would also be assisting in conducting inspections.

Administrator's Remarks, For Information - Dwight Hayes

Mr. Hayes presented the members with a Report of Routine Change of Managers of new facilities and funeral director/embalmer licenses issued. He noted that there have been four routine changes of managers since the last meeting. He stated staff has issued seven individual licenses since the last meeting; however, no funeral home permits have been issued.

Mr. Hayes briefed the Board on the new pocket cards and wall certificates which will be issued for the new license year.

Mr. Hayes stated Representative Bill Sandifer has been working with staff regarding the casket stores. He further stated that Representative Sandifer has requested and received an opinion from the Attorney General's Office, which is favorable to the Board's position regarding the casket stores. (The opinion is herewith attached and hereby becomes a permanent part of this record retained at the Board's office.) He noted that a hearing had been scheduled for today in the matter of Port Elsewhere's appeal of the cease and desist order issued in March 2004. He also stated that the attorney for Port Elsewhere has requested a copy of the tape from the last meeting under FOIA to determine if the information passed to the Board would unduly prejudice their case and, if they feel the information has prejudiced their case, they may request a hearing before a hearing officer. He continued by saying a hearing officer is an individual appointed by the Board to hear a case rather than the Board. He went on to say the hearing officer is a third party, which is neutral in a case, who would hear the facts of the case and who would render a decision. If the hearing officer renders a decision against Port Elsewhere, the company could then appeal the case to the Administrative Law Judge Division (ALJ). He indicated the hearing could happen within a couple of weeks.

Mr. Hayes stated staff has begun receiving renewals. He further stated that self-inspection forms have been mailed to the funeral homes and the establishments have been asked to conduct self-inspections.

Mr. Hayes stated he has also requested that the funeral homes send staff a copy of their price lists. He indicated it is staff's intention to review the price lists to determine how close each establishment is to the standard set by the Federal Trade Commission (FTC) and the funeral rule. He said assisting the establishments in having the price list in the proper format and having the correct information included on the list to meet the requirements would enable the establishments to be in compliance with the FTC and the funeral rule. He also said staff does not intend this to be a disciplinary issue unless they refuse to send the price list. He noted that permits would be mailed to the establishments even if the price list were not mailed to staff.

The Board discussed keeping the same format of numbering on the new licenses.

Advisory Opinions, If Needed, Sharon Dantzler, Office of General Counsel
There were no advisory opinions given during the May 25, 2004 meeting.

Legislative Update, If Needed, Legislative Liaison Office
There was no legislative update given during this meeting.

Hearing

1. Appeal of Cease and Desist Order of Removal Service

a. Carolina Funeral Service, Daniel Guy

This matter was recorded by a court reporter for a verbatim transcript.

The Board determined it would discuss the matter in executive session prior to making a decision.

Unfinished Business

1. Approval of Reciprocity Application

a. Allen Kirk Wolford

Mr. Hayes stated Mr. Wolford is applying for licensure via reciprocity.

Allen Kirk Wolford appeared before the Board at this time.

Mr. Wolford stated he graduated from Mid America Mortuary School in 1983 and has been licensed in Kentucky and Maryland; however, the Maryland license is no longer current. He indicated he has been licensed in Kentucky for over fifteen years. He is now employed with Kornegay Funeral Homes in Camden and has been employed there since February 2004. He previously lived in Goose Creek but has since moved to Camden. He worked at the Ratterman Funeral Homes in Louisville, Kentucky, which owned six funeral homes and handled approximately 2,300 funerals a year. While he was in Maryland he worked with the Ruck Funeral Homes, which handled approximately 2,500 funerals a year. He has not taken the national funeral exam, however he did take the Kentucky state law exam in 1984.

MOTION

Mr. Rhoden moved the Board discuss this matter in executive session. Mr. Jones seconded the motion, which carried unanimously.

New Business

1. Approval of Reinstatement Applications

a. Willie J. McCoy, Jr., Dual Licensure

Willie J. McCoy, Jr. appeared before the Board at this time.

Mr. Hayes stated Mr. McCoy's license lapsed June 30, 2000. He has completed all of the continuing education and has paid all of the fees. He noted that the SLED report shows a fraudulent check charge in 2002, which does not have a disposition and needs an explanation.

Mr. McCoy stated he was unaware that the fraudulent check charge was on his record since he had an affidavit of forgery turned in to the bank. He went on to say the judge threw the case out on the day he was arrested. He did not have the documentation regarding this matter with him, although he stated he would provide it to staff. He further stated he has not been engaged in the practice of funeral service during the time his license has been lapsed. He first became licensed, holding a dual license, in 1992.

MOTION

Mr. Garrett made a motion, seconded by Mr. Williams and unanimously carried, that the Board discuss this matter in executive session.

b. Daniel Wamer, Funeral Director and Funeral Home

Mr. Wamer did not appear at this meeting.

2. Approval of New Facility

a. Northeast Funeral Chapel, H. Lloyd Norris, Manager

H. Lloyd Norris and Jerome Brown appeared before the Board at this time.

Mr. Norris stated he is accompanying Mr. Brown as he is the owner of the facility and that Mr. Brown has asked him to develop a new facility.

Mr. Hayes stated Mr. Brown previously applied for an apprentice license under Mr. Gibson, however the board denied the application. Mr. Brown operated the facility for four months in an unlicensed capacity. He indicated that he has obtained documentation indicating there are approximately eight warrants against Mr. Brown.

Mr. Brown stated the warrants have been dismissed. He further stated that Mr. Gibson was handling a funeral the day of the October 2003 meeting.

Mr. Hayes stated that Mr. Gibson contacted him the day after the October 2003 Board meeting. He further stated he consulted with Mr. Troy on this matter that a temporary license was issued to the establishment pending approval at the next meeting. He noted

that Mr. Gibson did not attend the December 2003 meeting and that the Board reviewed and denied the application during that meeting. He went on to say that the original location of this facility was Decker Boulevard and that following the December 2003 meeting staff learned the facility had moved around the corner. He said that staff had no knowledge of this move until recently. He stated that a cease and desist order was issued when staff visited the new location. He indicated the cease and desist order was issued after it was discovered that he was not in compliance with the Board.

Mr. Brown stated the merchandise and furniture was moved out of the building, however, there was no operation out of the other facility. He indicated the owner of the building located on Decker Boulevard wanted the building.

Mr. Troy asked Mr. Norris if he was aware of the activities that have been discussed. Mr. Norris replied negatively. He further stated he is a man vulnerable to opportunity; however, he remains willing to operate this facility with Mr. Brown.

MOTION

Mr. Pennington moved the Board discuss this matter in executive session. Mr. Williams seconded the motion.

MOTION

Mr. Garrett moved, based on the information the Board has received, that the Board has given leniency in allowing Mr. Brown to operate the facility and that Mr. Brown since that time has moved his facility without the knowledge of the Board and went against the cease and desist order that the Board has issued, the Board has been more than lenient in what the Board has done, that the Board deny this application. Mr. Pennington withdrew his motion and seconded this motion, which carried unanimously.

Mr. Brown stated he did not go beyond the cease and desist order. He was given the cease and desist order when he came to the agency. He went on to say he spoke with Mr. Hayes and then spoke with Mr. Gibson. Mr. Gibson contacted Mr. Hayes and then spoke with Mr. Brown at which time he was informed he needed to complete another application. He knows that the facility has to be approved prior to beginning operations.

Mr. Hayes stated that staff learned from a vault company attempting to verify licensure of Mr. Brown because he had ordered a vault for a child. He further stated that subsequent investigation shows that he had made arrangements with the Department of Social Services (DSS) to bury a child. He went on to say that staff informed Mr. Brown at that time he had better not conduct funerals. He said the investigation revealed Mr. Brown was advertising on the Internet at this new location, signs were up at the new location and that a hearse was parked on the premises. He said that for all practical purposes, it looked as though the new location was in business.

b. Ocean View Funeral Home, LLC, Gilbert Bostick
Gilbert Bostick appeared before the Board at this time.

Mr. Bostick stated his purpose for becoming manager of the Ocean View Funeral Home would be to maintain the atmosphere for the public.

Mr. Hayes stated staff has received a criminal records check, which indicates a number of alcohol-related convictions dating from 1986 through 1995. On February 6, 2002 he was arrested for assault and battery of a high and aggravated nature. He was convicted in 2004 and sentenced to three years in jail, suspended on three years probation. He asked Mr. Bostick to explain the arrest and conviction. Mr. Bostick gave an unresponsive reply.

Mr. Bostick had previously applied to become a manager at a funeral home in York but did not complete the process because of the negative atmosphere at the establishment. He indicated he no longer has an alcohol problem. He then moved from Clover to his parents' home in Pamplico, however, he now lives in Conway. He is nearing the end of his three-year probation and reports once a month to his probation officer.

MOTION

Mr. Williams moved the Board discuss this matter in executive session. Mr. Tipton seconded the motion, which carried unanimously.

3. Approval of Additional Facility

a. The Ministry of Rivers Funeral Home Chapel, Leroy Rivers, Manager
Leroy Rivers appeared before the Board at this time.

Mr. Rivers stated he has been serving the Goose Creek/Berkeley County area for 15 years and that he previously served the Aiken County area. He further stated the Town of Wando does not currently have a facility and he would like to open a chapel there. He indicated the embalming would be completed at the parent facility. He would serve as manager and he lives approximately 15 miles from the proposed facility. His wife assists him with the business and his daughter is licensed as well.

MOTION

Mr. Williams moved the Board approve the facility pending a favorable inspection. The motion was seconded by Mr. Garrett and unanimously carried.

4. Approval of Apprentice Continuance

a. Jacquine M. Fields

Jacquine Fields appeared before the Board at this time.

Jacquine Fields stated she has completed fifteen months of the apprentice program. She went on to say she has remained in the funeral business over the years, although she did not complete the program.

Mr. Hayes stated that Ms. Fields has completed only fifteen months of her apprenticeship and that her five-year period has ended. He went on to say she has an additional nine months complete. She is asking the Board's approval to complete the apprentice program

and for her to retain the fifteen months she previously acquired.

MOTION

Mr. Pennington made a motion, seconded by Mr. Williams and unanimously carried, that the Board discuss this matter in executive session.

5. Approval of Programs

a. Future Planning Services, LLC - Karen L. Golden

Karen L. Golden appeared before the Board at this time.

Ms. Golden presented the members with documentation regarding Future Planning Services, LLC and briefed the Board on the company. She is a non-resident insurance agent for South Carolina; however, she is not licensed as a funeral director within this state.

Mr. Parks stated that although Ms. Golden's company may work in other states South Carolina's law does not allow Ms. Golden to operate in this state.

The Board questioned Ms. Golden on several points.

b. View of the Simplicity Plan - Stewart Enterprises

Mr. Hayes stated there is a question on whether this plan is proper. He indicated he was unaware of the plan until it was brought to his attention.

A brief discussion on this matter ensued.

The Board asked Mr. Hayes to contact Stewart Enterprises, in writing, and question their intentions regarding the plan.

Discussion Items

There were no discussion items for the May 25, 2004 meeting.

Public Comments

There were no public comments made during the May 25, 2004 meeting.

Executive Session

MOTION

Mr. Troy made a motion, seconded by Mr. Strom and unanimously carried, that the Board enter executive session.

Return to Public Session to Report on Executive Session

Mr. Troy noted for the record that no motions were made and no votes were taken during executive session.

Carolina Funeral Service

MOTION

Mr. Jones moved the Board not relieve Carolina Funeral Service of the cease and desist

order. The motion was seconded by Mr. Williams and unanimously carried.

Mr. Hayes informed Mr. Wolford that the Board has asked that he research the Kentucky exam to ensure it is comparable to South Carolina's exam prior to making a determination regarding his request for licensure.

Willie J. McCoy, Jr.

MOTION

Mr. Strom moved the Board approve this application contingent upon providing satisfactory proof of disposition of the July 10, 2002 fraudulent check charges. Mr. Williams seconded the motion, which carried unanimously.

Ocean View Funeral Home, LLC

MOTION

Mr. Tipton made a motion, seconded by Mr. Rhoden and unanimously carried, that in view of the fact that Mr. Bostick is on probation for a serious crime and that he would not be a suitable manager, the Board deny this application.

Jacquine M. Fields

MOTION

Mr. Rhoden moved the Board deny this continuation of apprenticeship. The motion was seconded by Mr. Jones and unanimously carried.

Consent Order

MOTION

Mr. Briggs moved the Board accept the IRC's recommendation regarding the consent order as presented. Mr. Tipton seconded the motion, which carried unanimously.

The Board determined it would hold its next working session meeting at 10:00 a.m., August 18, 2004. The Board also determined the August 19, 2004 meeting would be held at 9:00 a.m.

Adjournment

There being no further business to be discussed at this time, the May 25, 2004 meeting of the SC Board of Funeral Service adjourned at 1:00 p.m.