

**MINUTES**  
**South Carolina Board of Funeral Service**  
Board Meeting  
**10:00 a.m., April 25, 2006**  
Synergy Business Park  
110 Centerview Drive, Kingstree Building, Room 108  
Columbia, South Carolina

Doug Garrett, President, of Greenville, called the regular meeting of the S.C. Board of Funeral Service to order at 10:00 a.m. Other members present for the meeting included: Edward Briggs, Secretary/Treasurer, of Murrells Inlet; Glen Crawford, of Lancaster; Stan Hamilton, of Ridge Spring; Gerard Mikell, of North Charleston; Carl Pennington of Hartsville; and Tony Tipton, of Greer.

Todd Caughman, of Lexington, and Billy Horton, of Kingstree, were granted excused absences.

Staff members participating during the meeting included: Ernest Adams, Inspector; Randall Bryant, Assistant Deputy Director; Sandra Dickert, Administrative Assistant; Barbara Foster, Program Assistant; Jeanie Rose, Administrative Specialist; and Rick Wilson, Deputy General Counsel, LLR-Office of General Counsel.

Members of the public attending the meeting included: Dan Bankhead, Clyde Goodman, Clarence Hampton, Andrea Hawkins, Kip Kiser, Bill Lawless, Tracy Lester, Rick Pirkl, Lou Ann Pyatt, Alvaro Quesada, Ben Russell, and Tim White.

**Meeting Called to Order**

Mr. Garrett announced that public notice of this meeting was properly posted at the S. C. Board of Funeral Service office, Synergy Business Park, Kingstree Building 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.

**Invocation**

Mr. Crawford delivered the invocation.

**Introduction of Board Members and Persons Attending the Meeting**

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

**Approval of Minutes for the February 16, 2006 Meeting**

**MOTION**

Mr. Hamilton moved the Board approve the minutes of the February 16, 2006 meeting as presented. Mr. Mikell seconded the motion, which carried unanimously.

**President's Remarks - Fred D. Garrett, Jr.**

Mr. Garrett welcomed everyone to the meeting.

**Administrator's Remarks – Randall Bryant, Assistant Deputy Director**

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

*Legislative Updates, If Needed, Legislative Liaison Office*

There were no advisory opinions or legislative updates given during the April 25, 2006 meeting.

Mr. Bryant stated the license renewal forms would be mailed shortly. He asked the Board members and the continuing education providers to remind the licensees that the renewal would be for two years, which would cause the fee to increase this year, however, there would be no fee next year. He also asked the Board members and the continuing education providers to encourage licensees to renew on-line. He indicated a credit card or an electronic check would be required to renew on-line. He said the renewal notice would include a password and a user I.D. He continued by saying should any licensee have any problems staff would be glad to walk the individual through the process or mail a regular renewal to the individual.

Mr. Bryant presented the members with information regarding the Board member web page and briefly explained the web page to the members. He asked that the members direct any comments in regard to the web page to Ms. Foster or him.

Mr. Bryant stated staff would like to refine the disciplinary process by issuing a citation for any violation(s) found during routine inspections. He briefly explained the citation process and indicated that the citation process would begin around June 1, 2006. He noted the Board would hear contested cases.

Ms. Foster stated that the Board is in the third month of computer testing for the exam, which is administered by the International Conference of Funeral Board Service. She noted the testing process is going quite well. She went on to say staff is now converting the state law exam to the same system and hopes this system will be effective on or by May 1, 2006. She indicated staff has found it to be very successful so far.

**Disciplinary Reports**

Investigative Review Committee (IRC) Report/Consent Orders – Tony Kennedy and Ernest Adams

Mr. Adams presented the members with the March 22, 2006 IRC Report.

*Proposed Consent Order*

**MOTION**

Mr. Mikell moved the Board discuss 2005-17 in executive session. Mr. Pennington seconded the motion, which carried unanimously.

*Cases for Dismissal*

**MOTION**

Mr. Mikell moved the Board approve the IRCs recommendation on the following cases for dismissal. Mr. Pennington seconded the motion, which carried unanimously.

2005-8            2005-10            2005-11            2005-29

Inspections Report – Ernest Adams

Mr. Adams stated staff has conducted 41 inspections since the last meeting.

**Committee Reports**

1. Legislative Committee – Greg Long

Mr. Bryant stated Mr. Tracy Lester wished to address the Board in regard to legislative interest relative to his situation.

Mr. Tracy Lester stated he is appearing before the Board in an attempt to get the statute changed regarding denial of licensure based on prior criminal record. He further stated he has been accepted to Piedmont Technical College and cannot obtain an apprentice license as a result of a felony conviction from approximately 18 years ago. He indicated he would like for the Board to give him a chance in the industry. He continued by saying this is his third time appearing before the Board in regard to this matter.

Section 40-19-230(A)(2) and 40-19-230(B)(2) of the current statute states "A person may be issued a license as an embalmer or funeral director if the person has not been convicted of a violent crime or found guilty of a felony or crime of moral turpitude."

Mr. Bryant stated legislators have contacted him in regard to this matter and have indicated they were uncomfortable in moving forward with legislative change in this matter without the Board's endorsement.

Mr. Mikell asked the representatives of the SC Funeral Directors Association and the SC Morticians Association to speak in reference to this matter.

Mr. Kip Kiser, of the SC Funeral Directors Association, stated that with the way the statute is currently written an individual who has been convicted of a felony could not obtain licensure. He indicated this section of the law has been in effect since 1955. He noted the standard is being set for other professions that if an individual has been convicted of a felony cannot go into other professions. He went on to say that, although he is not at liberty to speak on behalf of the full association on this subject at this time, he does not see the Funeral Directors Association taking a stand to change this segment of the law. He also said with what he has previously experienced with the association and sitting on the Board he does not see the support of changing this segment of the law.

Mr. Briggs stated he would not be in favor of change in this section. He indicated there is a continual history and a pattern of arrests since Mr. Lester's felony conviction. He recommended the Board not entertain any change to this segment of the law.

Ms. Lou Ann Pyatt, of the SC Morticians Association, stated she does not have information to speak on this matter and that she also could not speak on behalf of the Morticians Association in regard to this matter at this time. She recommended the legislative committee and staff research this matter.

#### **MOTION**

Mr. Mikell made a motion that the Board take no action to support such a change with the legislature at this time pending investigation by the legislative committee and staff with a report back to the Board. Mr. Crawford seconded the motion. After a brief discussion Mr. Mikell rescinded this motion.

#### **MOTION**

Mr. Mikell moved the Board take no position in support of a change in the legislation in question, which prohibits a felon from being licensed. Mr. Hamilton seconded the motion. After a brief discussion, the motion was amended to include pending investigation by the legislative committee and with staff for precedence by another Board. Mr. Hamilton seconded the motion, which carried unanimously.

Mr. Lester stated he has been working with Ms. Ann Childs for approximately thirty hours a week for the previous two years. He went on to say he is licensed with another Board as a plumber.

Mr. Garrett stated the Board had earlier requested Mr. Lester appear with Ms. Childs or to have a letter from her stating her intent, such as what she would have him doing and how long he has been working at her funeral home. He further stated the Board had also requested Mr. Lester submit documentation of expungment, which he has not provided. He noted the Board is faced with the law and does not want to prohibit him from pursuing his goals and that the Board is not directing this segment of the law specifically at Mr. Lester; however, there be other individuals who are not as reputable as Mr. Lester who may use the law to other means.

Mr. Mikell presented the members with a proposed bill to amend 40-19-20, which deals with making false statements to the Board a felony instead of a misdemeanor. He indicated Representative Breeland introduced the bill on behalf of a funeral director in Charleston. He noted the bill would be pre-filed later this year for debate during the 2007 legislative session.

Mr. Mikell stated the Board would need to discuss the following issues: licensing and regulation of pre-need contracts, funeral home requirements: size, equipment, ventilation, licensing and regulation of centralized embalming, licensing and regulation of removal services, licensing and regulation of religious preparation room, continuing education courses, staff authorities, responsibilities and objectives, hearings (to include panel hearings), and the creation of procedure manual for the Board and staff. He noted the regulation of religious preparation rooms would be rooms in a mosque or other religious facility.

Mr. Bryant stated that in light of Mr. Long's resignation from the Board, the chairman may want to designate a legislative committee.

2. Newsletter Committee – Tony Tipton

Mr. Tipton had no report.

3. Continuing Education Committee – Carl Pennington

Mr. Pennington had no report.

4. State Law Exam Committee – Gerard Mikell

Mr. Mikell stated Ms. Foster gave the report earlier in the meeting.

### **Unfinished Business**

There was no unfinished business for discussion during the April 25, 2006 meeting.

### **Recess**

At 11:00 a.m., the Board took a short recess and resumed public session at 11:07 a.m.

### **Return to Public Session**

#### **New Business**

1. New Facility

a. *Graceland Mortuary, Manager: Clyde Reuben Goodman*

This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.

### **MOTION**

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

2. Reciprocity License/ yearly requirement

a. *Alvaro Jose Quesada - Has been licensed one year*

Mr. Quesada has been licensed in North Carolina for one year and is requesting licensure in South Carolina.

Alvaro Jose Quesada appeared before the Board at this time.

Ms. Rose stated Mr. Quesada completed his apprenticeship during the four years he was working at a North Carolina funeral home. She indicated he has been licensed in North Carolina for one year.

Discussion ensued regarding licensure by endorsement.

**MOTION**

Mr. Mikell moved the Board grant Mr. Quesada licensure based on reciprocity. Mr. Pennington seconded the motion, which carried unanimously.

3. Criminal Background Problems

a. *Benjamin H. Russell, II*

On February 14, 2006 the Board received an application from Benjamin H. Russell, II. Mr. Russell's criminal records check, provided by the State Law Enforcement Division (SLED), indicates he has been arrested and convicted of criminal domestic violence and public drunkenness and has been arrested for resisting arrest, trespassing, possession of marijuana and simple assault.

Benjamin H. Russell, II appeared before the Board at this time and discussed his criminal record with the Board.

**MOTION**

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

4. Addressing the Board

b. *Tracy Lester - Asking the Board to consider changing the law about Criminal Background Reports*

This matter was addressed earlier in the meeting.

5. Approval of Pre-Need Insurance

a. *Columbian Life*

Columbian Life has presented the Board with a pre-need insurance contract for approval.

**MOTION**

Mr. Pennington moved the Board approve the pre-need insurance contract. Mr. Mikell seconded the motion, which carried unanimously.

**Discussion Items**

Discussion about the Law Exam

This matter was discussed earlier in the meeting.

## **Public Comments**

There were no public comments made during the April 25, 2006 Board meeting.

## **Executive Session**

### **MOTION**

Mr. Garrett moved the Board enter executive session to seek legal counsel on matters. Mr. Crawford seconded the motion, which carried unanimously.

## **Return to Public Session to Report on Executive Session**

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

*Graceland Mortuary, Manager: Clyde Reuben Goodman*

Mr. Mikell asked that staff notify Mr. Goodman, by certified mail, of the Board's expectation that Mr. Goodman will be the manager of the day-to-day operations of the funeral home and must face any consequences of violations that may occur while he is the manager. He further stated any violations at a facility are the manager's responsibility; therefore, any Board actions would be taken against the licensee, not the corporation. He noted that sanctions could result in the suspension of Mr. Goodman's license as well as a fine. Therefore, he asked Mrs. Hawkins, as counsel, to emphasize to Mr. Goodman the importance of his diligently attending to his responsibilities as the manager of the facility.

### **MOTION**

Mr. Mikell moved the Board approve the new manager of this facility pending receipt of the articles of incorporation and contingent upon a favorable inspection. Mr. Briggs seconded the motion. The motion carried unanimously.

*Benjamin H. Russell, II*

### **MOTION**

Mr. Briggs made a motion, seconded by Mr. Mikell and unanimously carried, that Mr. Russell have his preceptor, Mr. Dunbar, appear with him at the next Board meeting.

Mr. Garrett asked that members of both associations serve on the legislative committee with Mr. Hamilton, Mr. Mikell, and Mr. Tipton.

Mr. Mikell asked that a work session be scheduled for the day prior to the next Board meeting. The work session was scheduled for 10:00 a.m., May 31, 2006.

## **Adjournment**

### **MOTION**

There being no further business to be discussed at this time, Mr. Briggs made a motion, seconded by Mr. Tipton and unanimously carried, that the meeting be adjourned.

The April 25, 2006 meeting adjourned at 1:05 p.m.