

MINUTES
South Carolina Board of Funeral Service
Board Meeting
10:00 a.m., August 28, 2008
Synergy Business Park
110 Centerview Drive, Kingtree Building, Room 108
Columbia, South Carolina

Meeting Called to Order

William Horton, president, of Kingtree, called the meeting to order at 10:03 a.m. Other members present for the meeting included: Gloria Vessels, vice president, of Anderson; Todd Caughman, of Lexington; Glen Crawford, of Lancaster; Homer Elwood, of Laurens; Thomas Genoble, of Union; Kip Kiser, of Cheraw; Eddie Nelson, of Blythewood; and Tony Tipton, of Greer.

Staff members participating in the meeting included: Ernest Adams, Inspector; Doris Cubitt, Administrator; Sharon Dantzler, Associate General Counsel, Office of General Counsel; Sandra Dickert, Administrative Assistant; Tony Kennedy, Investigator, Office of Investigations and Enforcement; Jeanie Rose, Administrative Specialist; and Sheridan Spoon, Associate General Counsel, Office of General Counsel.

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

Invocation

Mr. Kiser delivered the invocation.

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 attending the meeting introduced themselves.

Approval of Excused Absences

James McAlister, secretary, of Charleston, was granted an excused absence.

Approval of Minutes for the June 3, 2008 Meeting

MOTION

Mr. Crawford made a motion, seconded by Mr. Nelson and unanimously carried, the Board approve the minutes of the June 3, 2008 meeting.

President's Remarks – Billy Horton

Mr. Horton stated he has been nominated for another term by the SC Funeral Directors Association. He thanked the Board and staff for everything they do to allow the meetings to run smoothly.

Administrator's Remarks – Doris Cubitt

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 this meeting.

Mrs. Cubitt stated she would be attending a meeting of the North American Cemetery Regulators in Cleveland, Ohio in September 2008. She hopes to bring good information back for the funeral profession as the cemetery regulators sometimes cross over into the funeral industry.

Mrs. Cubitt stated the agency is in the midst of renovations and reorganization. She further stated the agency will now have a central licensing area which will handle initial licensure and renewals. She also stated this reorganization is being done for efficiency and for stream lining and she believes it will be a positive change.

Unfinished Business

1. Approval of Apprentice Application

a. *Tracy Lester*

Tracy Lester has appeared before the Board on several occasions seeking the Board's approval of an apprentice license. Mr. Lester's criminal history record provided by SLED reflects a felony and other convictions between 1984 and 2004. He last appeared before the Board during the August 17, 2006 meeting at which time the Board requested he appear during the October 2006 meeting with his preceptor, Ms. Ann Childs. Mr. Lester did not appear during the October 2006 meeting and in calls made to staff in 2008 stated he had been in an automobile accident in which he sustained head injuries following the August 17, 2006 meeting. He provided the Board with an updated criminal history report which reflects no new violations since his arrests in 2004.

Mr. Lester did not appear during the August 28, 2008 meeting.

New Business

2. Approval of Consent Agreements

a. *2007-31*

MOTION

Mr. Elwood made a motion the Board approve the consent agreement involving case #2007-31. Mr. Crawford seconded the motion, which carried unanimously.

b. *2007-36*

MOTION

Mr. Elwood made a motion, seconded by Mr. Caughman and unanimously carried, the Board approve the consent agreement involving case #2007-36.

3. Approval of New Facilities

a. *Affordable Funerals and Cremations – Donna M. Harper, Manager*

On August 13, 2008 the Board received a new facility application from Affordable Funerals and Cremations. The application states James M. Dunbar, of Dunbar Funeral Homes, is the owner and Ms. Harper is the proposed manager. Donna Harper was issued a dual license on November 21, 1989 which remains current and in good standing. She does have a criminal background; however, there are no new violations since she opened her facility on July 8, 2003. She states she lives approximately 23.8 miles from the facility. The facility would be housed in Dunbar Funeral Home and would open in 2010.

This proceeding was recorded by a court reporter for a verbatim transcript should one be necessary.

Donna Harper appeared before the Board at this time and was sworn to give correct testimony.

Ms. Harper owned Harper Memorial Chapel in Taylors; however, she closed that facility and moved to Columbia to honor a contract the Taylors facility has with the SC Department of Corrections and its transportation and cremation of inmates not claimed by the families. The facility has another two years on the contract. The facility would have a separate phone number and fax number from Dunbar Funeral Home.

MOTION

Mr. Kiser made a motion, seconded by Mr. Crawford and unanimously carried, that the matter be deferred to executive session for legal advice.

b. Avinger Funeral Home, Inc. – Ellore Chapel – Ernest Ward Avinger, Jr., Manager

On August 28, 2008 the Board received a new facility application from Avinger Funeral Home, Inc. – Ellore Chapel. Ward Avinger, Jr. is the owner and proposed manager of the facility. Mr. Avinger was issued a dual license on April 21, 1992 which is current and in good standing. He does not have a criminal background and lives 18.86 miles from the funeral.

This proceeding was recorded by a court reporter for a verbatim transcript should one be necessary.

Ward Avinger appeared before the Board at this time and was sworn to give correct testimony.

Mr. Avinger is in the negotiations of purchasing the facility and its assets. He is proposing to open the facility as a branch to his parent facility.

MOTION

Mr. Elwood made a motion, seconded by Mr. Caughman and unanimously carried, that the Board approve the application pending successful completion of the sale and the final inspection.

c. Clark's Funeral Home, Inc. – Everette O. Hughes, Manager

The Board received a new facility application dated June 30, 2008 from Clark's Funeral Home. The owner and manager of the funeral home, Annie Pinson, passed away and according to her Last Will and Testament, which is still in Probate Court, she bequeathed the funeral home to Horace Devore Chapman. Everette O. Hughes is the proposed manager of the facility. Mr. Hughes was initially issued a dual license on May 1, 1990. His license remains current and in good standing. Mr. Hughes' criminal history report provided by SLED reflects he does not have a criminal background. He lives ten miles from the facility. The application is being brought before the Board due to the death of the owner and because the facility remains in probate court.

This proceeding was recorded by a court reporter for a verbatim transcript should one be necessary.

Everette Hughes appeared before the Board at this time and was sworn to give correct testimony.

MOTION

Mr. Crawford made a motion, seconded by Mrs. Vessels and unanimously carried, the Board defer this matter to executive session for legal advice.

d. Dickerson Mortuary LLC – Darryl Dickerson, Manager

On July 16, 2008 the Board received a new facility application from Dickerson Mortuary LLC. The application states Darryl Dickerson is the owner and proposed manager of the facility. Mr. Dickerson was issued a dual license on September 19, 1995 and the license remains current and in good standing. His criminal history provided by SLED reflects he does have a criminal history; however, the arrest and conviction does not appear to be a felony. He states he lives ten miles from the facility.

This proceeding was recorded by a court reporter for a verbatim transcript should one be necessary.

Darryl Dickerson appeared before the Board and was sworn to give correct testimony.

Mr. Dickerson has purchased an existing facility which meets all local building codes and zoning ordinances.

MOTION

Mr. Crawford made a motion, seconded by Mr. Nelson and unanimously carried, the Board grant the facility licensure pending inspection.

e. M. Ferguson Funeral Home – Marcia Michelle Ferguson-McMahand, Manager

On August 1, 2008 the Board received a new facility application from M. Ferguson Funeral Home. The application states Marcia M. Ferguson-McMahand is the owner and proposed manager of the facility. Ms. Ferguson-McMahand was granted a dual license on November 24, 1992, which is current and in good standing. Her criminal history report provided by SLED reflects she has a criminal history involving fraudulent checks on May 6, 1997, April 4, 2001 and September 29, 2005. She lives three quarters of a mile from the facility.

This proceeding was recorded by a court reporter for a verbatim transcript should one be necessary.

Marcia Michelle Ferguson-McMahand appeared before the Board and was sworn to give correct testimony.

MOTION

Mr. Nelson made a motion, seconded by Mr. Tipton and unanimously carried, the Board approve the application pending inspection.

f. Quality Unlimited Funeral Services – Aurelio Dupriest Givens, Manager

On July 21, 2008 the Board received a new facility application from Quality Unlimited Funeral Services – The Northeast Chapel. The application states Aurelio Dupriest Givens is the owner and proposed manager of the facility. Mr. Givens was initially granted a funeral director's license on January 6, 2006 and the license remains current and in good standing. Mr. Givens' criminal history report provided by SLED reflects an arrest and conviction; however, it does not appear to be a felony. He lives 21 miles from the facility.

This proceeding was recorded by a court reporter for a verbatim transcript should one be necessary.

Aurelio Dupriest Givens appeared before the Board and was sworn to give correct testimony.

The Board discussed the answer to question fifteen regarding the name of the facility.

MOTION

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

4. Approval of New Facility and Additional Facility

g. *Kannaday Funeral Home – Ryan Lybrand Kannaday, Jr., Manager*

h. *Kannaday Funeral Home – Ryan Lybrand Kannaday, Jr., Manager*

The Board received a new facility application dated August 12, 2008 from Kannaday Funeral Home and an additional facility application also dated August 12, 2008 for Kannaday Funeral Home. The applications state Ryan Lybrand Kannaday, Jr. is the owner and proposed manager of both facilities. Mr. Kannaday was initially granted a funeral director's license on August 27, 2007 and the license remains current and in good standing. His criminal history report provided by SLED reflects he does not have a criminal background. He states he lives three miles from the parent facility and eight miles from the branch.

Mr. Horton recused himself from participating and voting in these matters.

This proceeding was recorded by a court reporter for a verbatim transcript should one be necessary.

Ryan Kannaday appeared before the Board and was sworn to give correct testimony.

Mr. Kannaday stated he is purchasing the facilities and their assets which were owned by his uncle since approximately 1970.

MOTION

Mr. Kiser made a motion, seconded by Mr. and unanimously carried, the Board approve both facilities pending inspection and the preneed audit from the Department of Consumer Affairs.

5. Approval of Apprentice

i. *Traber Bonham*

Traber Bonham was licensed as an apprentice from April 22, 2004 through April 22, 2006. His criminal history report provided by SLED reflects arrest charges from July 2004 through May 2005 for criminal domestic violence, which falls in the time he was initially licensed as an apprentice. He has provided the Board with a statement regarding his arrest record and has provided the Board with a drug screening report.

This proceeding was recorded by a court reporter for a verbatim transcript should one be necessary.

Traber Bonham appeared before the Board and was sworn to give correct testimony.

MOTION

Mr. Kiser made a motion, seconded by Mrs. Vessels and unanimously carried, the Board discuss this matter in executive session.

j. Brandon Frederick

Brandon Frederick applied for an apprentice permit which was issued for August 18, 2006 through August 18, 2008. He submitted quarterly reports for four and one-half months for which he received credit. He has now submitted updated reports for the initial four and one-half months with additional cases listed on the reports. He has also submitted additional reports to complete his apprenticeship which were received after the thirty day filing requirement.

Mr. Tipton recused himself from participating in this matter.

This proceeding was recorded by a court reporter for a verbatim transcript should one be necessary.

Brandon Frederick appeared before the Board and was sworn to give correct testimony.

Mr. Frederick graduated from Gupton Jones Mortuary College in February 2005. His mother was diagnosed with breast cancer during the time he was serving his apprenticeship. Mr. Frederick has completed his apprenticeship and is requesting the Board accept his quarterly reports, even though the reports are more than thirty days old.

MOTION

Mrs. Vessels made a motion, seconded by Mr. Nelson and unanimously carried, the Board discuss this matter in executive session.

6. Approval of Reinstatement

k. Geoffrey M. Atkins

Geoffrey M. Atkins was issued a dual license on October 15, 1986. His license expired on June 30, 2001. He has not submitted an updated application, criminal background nor has he paid license fees. He is requesting the Board waive the exam requirement due to health reasons and has provided the Board with a physician's statement from Patrick B. Mullen, MD, PA.

Mr. Tipton recused himself from participating in this matter.

This proceeding was recorded by a court reporter for a verbatim transcript should one be necessary.

Geoffrey M. Atkins appeared before the Board and was sworn to give correct testimony. Mr. Atkins has a frontal lobe brain injury, which resulted from a vehicle accident in 2001.

MOTION

Mr. Elwood made a motion the Board discuss this matter in executive session. Mrs. Vessels seconded the motion, which carried unanimously.

l. Wayne Stanley Cayruth

On July 7, 2008 the Board received a reinstatement application from Wayne Stanley Cayruth. Mr. Cayruth was issued a dual license on August 28, 1984, which expired on June 30, 2006. He has paid all license fees and fines.

This proceeding was recorded by a court reporter for a verbatim transcript should one be necessary.

Wayne Cayruth appeared before the Board and was sworn to give correct testimony.

MOTION

Mr. Crawford made a motion, seconded by Mr. Nelson and unanimously carried, the Board approve Mr. Cayruth's license reinstatement.

7. **Approval of Proposed 2009 Board Meeting Dates**

The Board members reviewed the proposed 2009 Board meeting dates as presented by staff.

February 3, 2009
August 20, 2009

April 23, 2009
October 8, 2009

June 18, 2009
December 17, 2009

The Board asked that the December 2009 meeting be changed to earlier in the month.

MOTION

Mr. Crawford made a motion the Board table this matter to the next meeting. Mr. Tipton seconded the motion, which carried unanimously.

Executive Session

MOTION

Mr. Nelson made a motion the Board enter executive session to seek legal advice. Mr. Genoble seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Crawford made a motion, seconded by Mr. Nelson and unanimously carried, the Board return to public session.

Mr. Horton noted for the record that no official action was taken during executive session.

Tracy Lester

MOTION

Mr. Kiser made a motion, seconded by Mr. Crawford and unanimously carried, the Board deny Mr. Lester's application as Mr. Lester did not appear and because conditions have not been met.

Affordable Funerals and Cremations

MOTION

Mr. Kiser made a motion the Board table this matter, that the matter be placed under investigation and that Mr. Dunbar and Ms. Harper appear before the Board during the next meeting. Mr. Crawford seconded the motion, which carried unanimously.

Clark's Funeral Home, Inc.

MOTION

Mr. Elwood made a motion, seconded by Mrs. Vessels and unanimously carried, the Board approve the application stating that the manager is liable for all aspects of the funeral home and that if the funeral home is approved to sell preneed that the preneed accounts be audited by the Department of Consumer Affairs.

Quality Unlimited Funeral Service

MOTION

Mr. Caughman made a motion the Board approve the application pending inspection and an audit of the preneed accounts by the Department of Consumer Affairs. Mr. Nelson seconded the motion, which carried unanimously.

Traber Bonham

MOTION

Mr. Genoble made a motion the Board approve the application, that the renewal be for one year and that he apply next year for an additional year. Mrs. Vessels seconded the motion, which carried unanimously.

Brandon Frederick

Mr. Tipton recused himself from voting in this matter.

MOTION

Mrs. Vessels made a motion, seconded by Mr. Caughman and unanimously carried, the Board accept the four and one-half months; however, he must complete the other 19 and one-half months of apprenticeship.

Geoffrey M. Atkins

Mr. Tipton recused himself from voting in this matter.

MOTION

Mrs. Vessels made a motion, seconded by Mr. Elwood and unanimously carried, Mr. Atkins must take the exam, complete all other licensure requirements and pay all fees and fines.

Discussion Items

8. Regulatory Changes to Infectious Waste Program – Susan Jenkins, SCDHEC
Susan Jenkins of SC Department of Health and Environmental Control (DHEC) appeared before the Board to discuss DHEC's proposed infectious waste regulations. DHEC's regulations regarding infectious waste came into effect in 1991 and have been revised on three occasions, with the last revision occurring in 2005.

There are currently five options to dispose of embalming waste 1) incineration, 2) solidification and eventual disposal in a solid waste landfill, 3) septic tank system with drain field, 4) direct line to a sewer system, and 5) pump and haul to a sewer system. DHEC is developing a policy to provide guidance in regard to waste which is not hazardous by definition and is not infectious.

DHEC's Division of On-Site Waste Water Management is developing a policy, which should be finalized in the near future, to disallow the disposal into a septic system with a drain field. This policy is coming from the Environmental Protection Agency (EPA), which considers waste water discharged from an embalming room to be industrial processed waste water. The Division of On-Site Waste Water Management, which is on the health side of DHEC, has decided to separate the plumbing in mortuaries, i.e., the embalming room waste water will flow into a holding tank for pump and haul and the sanitary waste water will flow into an on-site waste water system.

DHEC's Industrial Waste Water Systems issues permits for tank storage for pump and haul, however, the permits are issued to tanks greater of a certain size or if the tanks are pumped frequently.

DHEC has determined it would propose adding 'embalming waste' and 'infectious waste treatment residue' in the definition section of infectious waste in the regulations. DHEC is also proposing the section regarding treatment would include a sentence to the list of approved treatments (including incineration, steam sterilization, disinfection, or another department approved method) stating, "A treatment with at least a two percent formaldehyde solution would be an approved treatment." Formalin waste not used for its intended purpose would not be allowed to be placed into the storage tank and would need to move through the process to determine if it is hazardous waste.

If a facility chooses to store the treatment residue in a storage tank DHEC would propose that a facility, prior to construction, submit an application to that agency for a holding tank. DHEC is would also propose the installation of a metering device or some other method for existing holding tanks to measure input and output and for facilities to record input and output in a log to be submitted to DHEC on an annual basis, with re-registration, to ensure the tank is not leaking. If documentation supports a leak or the facility knows of a leak the facility is to notify DHEC within seventy-two (72) hours. The facility would be responsible for any clean up of leaks. DHEC may coordinate with the Funeral Board inspector to look at the tank during his inspection of the facility the Board.

Ms. Jenkins stated these matters are proposed and that language would be ready in the near future. She further stated DHEC is asking for the Board's feed back and asked the Board if there are other organizations which should be contacted.

Ms. Jenkins stated the Board could contact Jeff DeBessonnet in regard to industrial waste water or Leonard Gordon in regard to on-site waste water management.

9. ICFSEB Presentation – Skip Mikell

Mr. Skip Mikell, ICFSEB District Governor, made a presentation to the Board in regard to the International Conference of Funeral Service Education Boards (ICFSEB).

10. Board's position on funeral homes which have not opened within one year after Board approval

MOTION

Mr. Kiser made a motion, seconded by Mr. Elwood and unanimously carried, the Board table the remaining discussion items and committee reports to the October 23, 2008 meeting.

11. Discussion on Continuing Education Courses from Consent Agreements

This discussion item was tabled to the October 23, 2008 meeting.

12. Discussion on Approval of Continuing Education Courses through the Academy

This discussion item was tabled to the October 12, 2008 meeting.

Disciplinary Reports

13. Investigative Review Committee (IRC) Report – Tony Kennedy and Ernest Adams

The Board reviewed the June 17, 2008 IRC Report and the August 20, 2008 IRC Report.

MOTION

Mr. Elwood made a motion, seconded by Mr. Tipton and unanimously carried, the Board approve the IRC reports of June 17, 2008 and August 20, 2008.

14. Inspections Report – Ernest Adams

Mr. Adams stated he has conducted approximately 35 to 40 inspections since the last meeting.

Mr. Horton questioned Mr. Adams if he is checking the General Price Lists (GPLs) during his inspections. Mr. Adams stated he is checking the GPLs and he's still finding problems with the range on the outer burial containers and caskets. He noted the price ranges on the GPLs and the CPLs differ. He said he has found improvements in the GPLs from when the Board initially began inspecting the GPLs.

15. Number of Open Complaints

There are currently nine open cases.

16. Citation Process and Fines – Ernest Adams

Mr. Adams presented the Board with a letter seeking the Board's approval on reinstating fines. His letter states the most common violations include: 1) failure to have six (6) caskets; 2) failure to have a correct GPL, CPL, or OBCPL; and 3) failure to display license. He further stated a private reprimand is handed out for a first violation with 30 days to correct the violation; a second violation constitutes a public reprimand and a \$500.00 fine, a third violation would include suspension. The letter included a revised list of fines, which is herewith attached and becomes a permanent part of the record located at the Board's office.

MOTION

Mr. Elwood made a motion, seconded by Mrs. Vessels and unanimously carried, the Board approve the proposed fine schedule as presented.

Committee Reports

17. Legislative Committee – Kip Kiser, Tom Genoble, Sheridan Spoon

This committee's report was tabled to the October 2008 meeting.

18. Examination/CEU/Education – Gloria Vessels, Todd Caughman, Glen Crawford, Ernest Adams

Review State Law Exam

The Board tabled this matter to the October 2008 meeting.

Examination CEU Education Committee Recommendations

Mr. Kiser briefed the Board on the committee's recommendations. The recommendations are herewith attached and become a permanent part of the record retained at the Board's office.

The committee made a motion the Board accept the recommendations as presented. Since the motion came from committee no second was needed. The Board voted unanimously to accept the recommendations.

The committee will draft language to insert the recommendations into the regulations prior to the recommendations becoming active. It was noted during discussion the regulation approval process could take up to one year.

Piedmont Technical College asked the Board if the students who have completed the funeral director certificate program can apply to take the state exam. The certificate program is SACS accredited; however, the program is not American Board accredited.

Following discussion on this matter, the Board determined it must remain with the statute and not allow students who have taken the certificate program take the state exam.

19. Regulatory Compliance (Federal and State) / FTC / OSHA / ADA / PreNeed – James McAlister, Billy Horton, Tom Genoble, Doris Cubitt

This matter was tabled to the October 23, 2008 meeting.

20. Publications / Newsletter / Website –Glen Crawford, Tony Tipton, Sandra Dickert

This committee's report was tabled to the October 2008 meeting.

Public Comments

There were no public comments made during the August 28, 2008 meeting.

Adjournment

MOTION

There being no further business to be discussed at this time, Mr. Crawford made a motion the meeting be adjourned.

The August 28, 2008 meeting of the SC Board of Funeral Service adjourned at 3:55 p.m.