

**MINUTES**  
**South Carolina Board of Funeral Service**  
**Board Meeting**  
**10:00 a.m., April 23, 2009**  
**Synergy Business Park**  
**110 Centerview Drive, Kingtree Building, Room 108**  
**Columbia, South Carolina**

**Meeting Called to Order**

Gloria Vessels, president, of Greenville, called the regular meeting of the SC Board of Funeral Service to order at 10:10 a.m. Other Board members present for the meeting included: James McAlister, vice president of Charleston; Eddie Nelson, secretary of Columbia; Glen Crawford, of Lancaster; Homer Elwood, of Lauren; Thomas Genoble, of Union; William Horton, of Kingtree; Carl Pennington, of Hartsville, Jeff Temples, of Columbia; and Tony Tipton, of Greer.

Staff members participating in the meeting included: Ernest Adams, Inspector; Doris Cubitt, Administrator; Sandra Dickert, Administrative Assistant; Amy Holleman, Administrative Assistant; Tony Kennedy, Investigator; Jeanie Rose, Administrative Specialist; Sheridan Spoon, Deputy General Counsel; and Michael Teague, Administrative Assistant.

- A. Mrs. Vessels 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.

- B. Pledge of Allegiance  
All present recited the Pledge of Allegiance.

- C. Invocation  
Mr. Nelson delivered the invocation.

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

The Board members, staff and the public introduced themselves.

**Approval of Excused Absences**

All Board members were present.

**Approval of Minutes for the February 3, 2009 Meeting**

**MOTION**

Mr. Crawford made a motion the minutes from the February 3, 2009 meeting be approved. Mr. McAlister seconded the motion, which carried unanimously.

**President's Remarks – Gloria Vessels**

Mrs. Vessels welcomed everyone to the meeting and hoped everyone would learn from the meeting.

**Administrator's Remarks – Doris Cubitt**

- A. Advisory Opinions, If Needed, Office of General Counsel  
There were no advisory opinions given during this meeting.

- B. Legislative Updates, If Needed, Legislative Liaison Office

There was no legislative update given during this meeting.

C. Presentation on Office of Licensure and Compliance, David Christian, III  
Mr. David Christian, III, Assistant Deputy Director of the Office of Licensure and Compliance, briefed the Board on the duties of his office, which came into existence in August 2008. He introduced his supervisory staff to the Board and each individual briefly described his/her duties.

The Board members questioned Mr. Christian regarding applications. Mr. Christian noted his office does not currently process the facility applications; however those applications should be in his area by the end of 2010. He noted his office monitors all of the consent agreements and final orders issued by the Board.

D. Contact List for Office of Licensure and Compliance  
Mrs. Cubitt stated a contact list for the Office of Licensure and Compliance was in the agenda packages.

E. Proposed Guidelines for Removing Disciplinary Actions  
Mrs. Cubitt presented the members with proposed guidelines regarding disciplinary actions listed on the Board's web page. She stated if the issue was practice related it would remain on the web page indefinitely; however, if the issue was an administrative matter, it would remain on the web page for a shorter period of time. She noted administrative issues would include matters such as late renewals, whereas a practice issue would include an IRC related matter.

Discussion on this matter ensued. The Board determined it would further discuss this matter in executive session and would render a decision later.

Mrs. Cubitt stated the deadline for the submittal of the Statement of Economic Interest forms to the State Ethics Commission has now passed. She further stated that agency has now begun issuing penalties against individuals who have failed to submit the forms and urged any member who may not have filed to do so.

Mrs. Cubitt stated the agency now has an online service for licensees to submit a change of address.

Mrs. Cubitt stated the Board should note the reason for entering executive session.

Mrs. Cubitt stated staff has the ability to send the members the agenda packages on a CD should any member like to receive the package in that manner.

## **7. Unfinished Business**

### **A. Approval of New Facility**

#### **i. Dash Funeral Home – Franklin R. Dash, Manager**

The Board received a new facility application dated April 2, 2009 from Dash Funeral Home of Orangeburg. The application lists Franklin R. Dash as the facility owner and proposed manager. Mr. Dash was initially issued a dual license on April 5, 1978, which remains current and in good standing. Mr. Dash does not have a criminal record and lives 3.5 miles from the facility.

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

Franklin R. Dash appeared before the Board and offered testimony in reference to his application.

**MOTION**

Mr. Horton made a motion the Board approve the application as submitted pending satisfactory inspection within one year of the application date. Mr. Nelson seconded the motion, which carried unanimously.

**8. New Business**

A. Approval of New Facility

i. McCollom-Myers Mortuary, LLC – Brian Walter Myers, Manager

On April 9, 2009 the Board received a new facility application from McCollom Funeral Home. The application lists Brian Walter Myers as the facility owner and proposed manager. Mr. Myers was initially issued a dual license on April 9, 1999 and the license remains current and in good standing. He lives 3.09 miles from the facility. Mr. Myers' criminal history report shows a minor violation, which was nolle prossed.

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

Brian Walter Myers appeared before the Board and offered testimony regarding the application.

This facility is an existing funeral home and meets all local zoning requirements. The facility does conduct preneed transactions.

**MOTION**

Mr. Genoble made a motion this application pending inspection of the facility within one year of this application and an audit of the preneed accounts by the Department of Consumer affairs. Mr. Nelson seconded the motion, which carried unanimously.

ii. Palmetto Crematory of Fort Mill, Derrick Stephen Robinson, Manager

On March 17, 2009 the Board received a new facility application from Palmetto Crematory of Fort Mill. The application shows Derrick Stephen Robinson and Jack H. Smith, Jr. as the facility owners and shows Mr. Robinson as the proposed manager. Derrick S. Robinson was initially issued a dual license on October 16, 1995, which remains current and in good standing. Mr. Robinson does not have a criminal record and he lives 28 miles from the funeral home. The application was approved during the April 17, 2008 meeting; however, the facility is still one month from completion.

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

Derrick Stephen Robinson did not appear during this meeting.

Mrs. Cubitt stated the Board had previously approved the facility; however, the facility has yet not been completed would not be completed for another one or two months. She said the completion would put the facility outside of the one year time usually set by the Board. She noted the facility is also constructing a crematory which would not be completed for approximately six months. She said Mr. Robinson will provide the Board with proof of residency within the 25 mile radius as required by law.

**MOTION**

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

B. Approval of Additional Facility

i. Leevy's Funeral Home, Winnsboro Chapel, Christopher Leevy Johnson  
Manager

On April 9, 2009 the Board received an additional facility location application from Leevy's Funeral Home, Winnsboro Chapel. The application lists David Whitaker as the owner and Christopher Leevy Johnson as the proposed manager. Mr. Johnson was initially issued a dual license on April 9, 1999 and the license remains current and in good standing. He does not have a criminal background and lives 26 miles from the facility. Staff conducted two mileage checks on MapQuest, which showed different calculations between Mr. Johnson's residence and the facility, one of which was 26.96 miles and the other calculation being 32.47 miles.

Mr. Nelson recused himself from participating and voting in this matter.

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

Christopher Leevy Johnson appeared before the Board and offered testimony regarding the application.

Mr. Johnson stated he understands the Board could set precedence by waiving the 25 mile requirement. He provided the Board with a list of roads he would take to the facility, which would total 26 miles. Should the Board not approve the application with Mr. Johnson as manager, an application showing Mr. George Johnson as the proposed manager will be submitted for Board approval. Mr. George Johnson lives 25.2 miles from the facility.

**MOTION**

Mr. Pennington made a motion the Board take this matter to executive session. Mr. Tipton seconded the motion, which carried unanimously.

B. Approval of Reciprocity Application

i. Ferrell Joseph Mowell

On January 7, 2009 the Board received a reciprocal dual application from Ferrell Joseph Mowell. Mr. Mowell's criminal history report noted a felony arrest; however, his attorney provided the Board with a letter stating the charge was dismissed in August 2006. Mr. Mowell provided the Board with a second criminal history report that notes the felony charge was reduced to a misdemeanor.

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

Ferrell Joseph Mowell appeared before the Board and offered testimony regarding his application. Mr. Mowell stated his attorney worked from June 2008 to October 2008 to change the charges on the criminal history reports. He further stated the judge dismissed the case. He has been arrested for DUI on two occasions and convicted on one of the DUI cases and that was in 1991. He was again arrested for DUI in August 2008; however, that he has not yet been arraigned on that charge.

**MOTION**

Mr. Elwood made a motion to take this matter to executive session for legal advice on this matter. Mr. Nelson seconded the motion, which carried unanimously.

### **Executive Session**

#### **MOTION**

Mr. Horton made a motion to enter closed session to seek legal advice on this matter. Mr. Elwood seconded the motion, which carried unanimously.

### **Return to Public Session**

#### **MOTION**

Mr. Horton made a motion the Board return to public session.. Mr. Elwood seconded the motion, which carried unanimously.

Mrs. Vessels noted for the record that no official action was taken during executive session.

#### **MOTION**

Mr. Elwood made a motion the Board license Mr. Mowell. Mr. Horton seconded the motion, which carried unanimously.

- C. Approval of Reinstatement
  - i. Erin McClellan Rivers

On February 24, 2009 the Board received a dual license reinstatement application from Erin McClellan Rivers. Ms. Rivers was initially issued a dual license on April 16, 1996, which expired on June 30, 2006. She has paid all reinstatement fees and has submitted proof of all continuing education hours. Ms. Rivers' criminal history report notes arrests and convictions date back to 2004 to 2006 which requires Board approval.

Jeff Temples recused himself from participating and voting in this matter.

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

Erin McClellan Rivers appeared before the Board and offered testimony on her behalf.

Ms. Rivers has battled substance abuse which resulted in arrests. She entered a lengthy rehabilitation and has been working to get her life back in order.

#### **MOTION**

Mr. Elwood made a motion the Board accept Ms. Rivers' application. Mr. Horton seconded the motion. Discussion on this matter ensued. Mr. Elwood amended the motion to state the Board accept Ms. Rivers' application upon submittal of an amended application. Mr. Horton seconded the amended motion. Following discussion on this matter, Mr. Elwood rescinded his motion.

#### **MOTION**

Mr. Pennington made a motion the Board take this matter to executive session. Mr. Tipton seconded the motion, which carried unanimously.

- D. Approval of Apprenticeship
  - i. Curtis Lee Tompkins (Dual Apprentice)

On January 16, 2009 the Board received an apprentice funeral director/embalmer application from Curtis Lee Tompkins. He is currently completing his funeral education at Piedmont

Technical College and will begin his apprenticeship. His criminal history report notes fraudulent checks; however, the record shows no arrests or convictions since 1981.

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

Curtis Lee Tompkins appeared before the Board and offered testimony on his own behalf. Mr. Tompkins moved to Atlanta, Georgia in 1981 and has now residing in McCormick, South Carolina.

### **MOTION**

Mr. Tipton made a motion the Board approve Mr. Tompkins' application. Mr. Horton seconded the motion, which carried unanimously.

## **9. Discussion Items**

### **A. Advertising Approval – Manigault-Hurley Funeral Home, Inc.**

Mrs. Cubitt discussed the advertising proposal submitted by Manigault-Hurley Funeral Home, Inc.

Mr. Horton stated the letter as written (the first two paragraphs) are fine. However, he has a problem with the salutation, the third paragraph, and the certificate, which he believes are in violation of the funeral rule. He feels the Board should inform the firm this is a gray area and that the Board cannot advise them on this matter.

Mrs. Cubitt stated the Board has a policy that states individuals cannot take the exam until after completion of the apprenticeship. She noted it would benefit the students to take the exam following school and prior to apprenticeship. She said the individuals would not be licensed until all requirements have been met. She further stated the individuals who take the funeral director/embalmer program at Piedmont Technical College take the national test once they have completed the program. She stated if the individual does not pass the national exam, the individual may retake the exam until he/she has successfully passed. She said the individual would not be able to take the state exam until the apprenticeship has been completed. She asked the Board to consider this policy.

Mrs. Vessels asked that these matters be discussed during a work session meeting and asked Mrs. Cubitt to coordinate the meeting.

### **B. Casket Requirement – Ernest Adams**

Mr. Adams stated currently each funeral home is required to have six full caskets. He further stated with today's technology he feels the requirement is no longer necessary. He said he would bring more information to the Board at a later date.

### **C. Fine for Holding a Body (Violation) – Ernest Adams**

Mr. Adams stated the Board approved guidelines does not include a fine for a funeral home holding a body. He further stated as an example a funeral home may pick up a body and funeral home may change managers prior to the family making final arrangements. He said the funeral home may not have received permission to embalm the body and will not release the body.

## **10. Disciplinary Reports**

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

Mr. Kennedy briefed the Board on the March 24, 2009 IRC report.

**MOTION**

Mr. Genoble made a motion the Board approve the March 24, 2009 IRC report. Mr. Nelson seconded the motion, which carried unanimously.

Inspections Report – Ernest Adams

Mr. Adams stated he has conducted 117 inspections since the last meeting. He said he still sees typographical errors on GPLs, although he allows corrections to be made.

Mr. Horton questioned Mr. Adams regarding structural condition of prep rooms. Board has no authority to enforce.

Mr. Horton asked that the Board discuss options for the Board to enforce the minimum standards structural integrity of the prep rooms during the next meeting.

C. Number of Open Complaints

Mr. Kennedy stated there are currently 23 open cases in regard to the funeral industry. He noted that of the 23 cases 18 cases have been completed in the Office of Investigations and Enforcement and have been submitted to the Office of General Counsel for board action.

**11. Committee Reports**

A. Legislative Committee – Tom Genoble, Carl Pennington, Sheridan Spoon

This committee had no report.

B. Examination/CEU/Education – Gloria Vessels, Glen Crawford, Ernest Adams

This committee had no report.

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

This committee had no report.

D. Publications / Newsletter / Website – Gloria Vessels, Glen Crawford, Tony Tipton, Jeff Temples, Sandra Dickert

This committee had no report.

**12. Public Comments**

There were no public comments made during this meeting.

**Executive Session**

**MOTION**

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

**Return to Public Session**

**MOTION**

Mr. McAlister made a motion the Board return to public session. Mr. Horton seconded the motion, which carried unanimously.

Mrs. Vessels noted for the record that official action was taken during executive session.

Erin McClellan Rivers

Mr. Temples recused himself from participating in the further discussion on this matter.

Ms. Rivers briefed the board on the rehabilitation program she in which she participated. She is currently attending AA meetings on a weekly basis and occasionally attends twice a week.

Mr. McAlister asked Ms. Rivers if she would object to sending reports from AA to the Board. Mrs. Rivers replied negatively.

**MOTION**

Mr. McAlister made a motion the Board reinstate Ms. Rivers' license with the stipulation that she submit reports from AA every two months, if the reports are not received in a timely manner that her license be immediately suspended, and that she submit a criminal history report at the next renewal. Mr. Elwood seconded the motion, which carried unanimously.

**13. Executive Session**

**MOTION**

Mr. Elwood made a motion the Board enter executive session for legal advice. Mr. Genoble seconded the motion, which carried unanimously.

**14. Return to Public Session**

**MOTION**

Mr. Tipton made a motion the Board return to public session. Mr. Pennington seconded the motion, which carried unanimously.

Mrs. Vessels noted for the record that no official action was taken during executive session.

**15. Adjournment**

**MOTION**

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

The April 23, 2009 meeting of the SC Board of Funeral Service adjourned at 1:53 p.m.