

MINUTES
South Carolina Board of Funeral Service
Board Meeting
10:00 a.m., June 15, 2009
Synergy Business Park
110 Centerview Drive, Kingstree Building, Room 108
Columbia, South Carolina

Meeting Called to Order

Gloria Vessels, president, of Anderson, called the regular meeting of the SC Board of Funeral Service to order at 10:35 a.m. Other Board members present for the meeting included: Eddie Nelson, secretary of Columbia; Glen Crawford, of Lancaster; Homer Elwood, of Lauren; Thomas Genoble, of Union; William Horton, of Kingstree; 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. Public Notice

Ms. Vessels 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.

B. 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, vice president of Charleston, and Carl Pennington, of Hartsville were granted excused absences. Homer Elwood, of Laurens; Thomas Genoble, of Union; and Jeff Temples, of Columbia were also granted excused absences.

Approval of Minutes for the April 23, 2009 and May 21, 2009 Meetings

MOTION

Mr. Crawford made a motion to approve the minutes of the April 23, 2009 and May 21, 2009 meetings. Mr. Nelson seconded the motion, which carried unanimously.

Mrs. Vessels noted one correction to page seven. She stated the sentence should read no official action was taken during executive session. The correction had been previously noted and made prior to the meeting.

President's Remarks – Gloria Vessels

Mrs. Vessels stated no official action can be taken on the applications during this meeting as a quorum is not present. She further stated she hopes to have a conference call meeting later in the week.

Unfinished Business

A. Approval of New Facility (extension)

i. Palmetto Crematory-Derrick 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 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.

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. When the facility is completed it would put the facility outside of the one year time usually set by the Board. The facility is also constructing a crematory which will not be completed for approximately six months. Mr. Robinson will provide the Board with proof of residency within the 25 mile radius as required by law.

Derrick Stephen Robinson did not appear during the April 23, 2009 meeting and the Board voted to table this matter until this meeting.

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

Mr. Robinson appeared before the Board to offer testimony.

Mr. Robinson stated the bank had financial problems and he had to move to another business plan with another bank. The facility should be completed in approximately three weeks. The crematory should be completed by August 2009. The DHEC deadline is August 6, 2009

Cave Funeral Home

Mr. Horton questioned staff regarding the Cave Funeral Service hearing. Mr. Spoon replied Cave Funeral Home is appealing the Board's decision regarding the revocation of licenses before the Administrative Law Division. He noted the hearing is scheduled for July 14, 2009. Mr. Spoon briefed the Board regarding the process of the Administrative Law Division.

New Business

B. Approval of New Facility

i. Brunson Funeral Home & Cremation Service – Isaac William Brunson, III, Manager

On May 13, 2009 the Board received a new facility application from Brunson Funeral Home & Cremation Service. The application states that the owners of the facility are Isaac William Brunson, III and Monica Brewer Brunson and Mr. Brunson is the proposed manager. Mr. Brunson was initially issued a dual license on May 28, 2004, which remains current and in good standing. He lives three miles from the facility and does not have a criminal background.

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

Isaac W. Brunson, III appeared before the Board and offered testimony.

Mr. Brunson is leasing a building and will be appearing before the local jurisdiction its meeting later today pending approval by the Board. A meeting has been held with the hospital located next to the building, which has no problem with the building becoming a funeral home. He hopes the facility will be completed in September 2009. He will not be installing a crematory at this time.

ii. MaHaffey Funeral Home & Cremation Center – Joe Wilson, Manager

On May 19, 2009 the Board received a change of facility manager application from MaHaffey Funeral Home & Cremation Center. The application states Joseph D. Wilson is the owner and will be the proposed manager. Mr. Wilson was initially issued a dual license on July 9, 2008, which remains current and in good standing. He does not have a criminal background. This facility was previously owned by Gregory Rollings with Penacle Company. On May 1, 2009 the Board received a letter from Ms. Ann Horton stating she was no longer manager of the facility. Staff mailed a change of manager application on May 1, 2009 along with a letter informing the facility a new manager had to be in place within thirty days (June 1, 2009). Mr. Wilson is asking the Board to waive the requirement of being licensed for one year and allow him to become manager twenty-four days shy of the one year requirement.

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

Joe Wilson appeared before the Board and offered testimony.

Mr. Wilson stated he moved to the facility on Saturday, June 13, 2009. He presented the Board with documentation from the telephone company. Ralph MaHaffey has agreed to serve as manager if the Board does not allow him to serve as manager. The facility has been operating without a current manager; however, the facility has not had any calls during this time.

MOTION

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

iv. Lancaster Crematory – Hazel R. Cauthen, Jr., Manager

On June 2, 2009 the Board received an additional facility application from Lancaster Crematory. The application states Kay C. Cauthen is the facility owner and Hazel R. Cauthen, Jr. is the proposed manager. Mr. Cauthen was initially issued a dual license on July 31, 1969, which remains current and in good standing. Mr. Cauthen lives four miles from the facility and does not have a criminal background.

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

Hazel Cauthen, Jr. appeared before the Board and offered testimony.

The funeral home is building a crematory behind the existing facility. The facility should receive the DHEC license on Wednesday, June 17, 2009 as it is being printed this date. Construction should begin later this week. A pet crematory will be installed in the same facility. The facility will meet all local building and zoning codes. The retort for the pet incinerator will require a separate license from the incinerator for human remains and will be located at the opposite end of the facility from the retort for the human remains.

C. Approval of Additional Facility

i. *M. Ferguson Funeral Home Chapel – Marcia Michelle McMahan, Manager*

On May 18, 2009 the Board received an additional facility application from M. Ferguson Funeral Home Chapel. The application reflects Marcia M. (Ferguson) McMahan is the owner and proposed manager. Ms. (Ferguson) McMahan was initially issued a dual license on November 24, 1992, which remains current and in good standing. Ms. (Ferguson) McMahan appeared before the Board in August 2008 at which time she briefed the Board on her criminal history report. The Board approved the facility for licensure during that meeting.

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

Marcia M. (Ferguson) McMahan appeared before the Board and offered testimony.

Ms. Vessels noted for the record that Mr. Carl Pennington, of Hartsville, was attending this portion of the meeting via teleconference.

iii. *Nelson's Funeral Home – Eddie J. Nelson, Manager*

On May 21, 2009 the Board received a new facility application from Nelson's Funeral Home. The application states that Eddie J. Nelson is the owner and proposed manager. Mr. Nelson was initially issued a dual license on August 1, 1978, which remains current and in good standing. Mr. Nelson lives 13.97 miles from the facility and does not have a criminal background.

Mr. Nelson recused himself from participating and voting in this matter. He appeared before the Board to offer testimony.

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

The facility will be a new facility and meets all local zoning and building codes. He met with the contractor on June 14, 2009 who estimates the project will take approximately 180 days.

MOTION

Mr. Horton made a motion the Board approve Nelson's Funeral Home pending inspection Mr. Crawford seconded the motion, which carried unanimously.

= D. Approval of Apprentice Embalmer

i. *John Robert Smith*

On October 27, 2008 the Board received an apprentice embalmer application from John Robert Smith. On August 5, 1982 Mr. Smith began his funeral director and embalmer apprenticeship. He graduated from Cincinnati Mortuary College on June 15, 1985. On April 8, 1985 the Board sent a letter to Mr. Smith stating it was necessary for him to complete mortuary school prior to taking the embalmer exam. Mr. Smith stated in a letter dated April 14, 1985 that he would be graduating from mortuary school in June 1985. On April 17, 1985 the Board sent Mr. Smith a letter stating, "Our records show that you registered as a FDE apprentice on August 5, 1982. It is necessary for you to have completed one year of apprenticeship to take the funeral director examination and two years to take the embalmer examination." Mr. Smith failed the exam with a score of 69.6 on August 15, 1985. On May 13, 1985 Mr. Smith applied for a funeral director/embalmer license. He passed an oral funeral director's exam with a score of 80 and

passed an embalmer's exam with a score of 90 sometime in 1986. He was issued an initial funeral director's license on July 10, 1986. In August 1986 (approximately) he wrote a letter to the Board to ask the Board to check on his embalmer's license. The letter stated he could have passed the embalmer's exam if he could have taken it in July 1985. On March 31, 1987 the board sent Mr. Smith a letter stating that his letter regarding his embalmer's license was presented to the Board; however, the Board was unable to comply with his request and he was instructed to retake the exam in July. Mr. Smith reapplied to take the embalmer's exam in 1987. On July 1, 1987 Mr. Smith failed the embalmer's exam with a score of 52.8. On June 8, 1989 Mr. Smith reapplied for an embalmer's license. He again failed the exam with a score of 49.2 on July 12, 1989. In a letter dated October 30, 1998 to Congressman Floyd Spence, Mr. Smith gave a brief time line of events and believes he was incorrectly instructed that he needed to complete his apprenticeship prior to taking the state exam. In that letter he requested that the Board the written score on the national exam and the score on the oral exam be added together so he may obtain a passing score. Congressman Spence's office forwarded Mr. Smith's letter to the Board on November 4, 1998. On January 6, 2006 a letter was mailed to Candy Dawkins in regard to the fact that Mr. Smith has never held an embalmer or an apprentice embalmer's license. On March 8, 2006 another letter was mailed to Lisa McPherson regarding a subpoena in case #2004-CP-32-2638. That letter also stated that Mr. Smith had never held an embalmer's license in South Carolina and that his license file does not reflect an apprenticeship except for the April 17, 1985 letter. Mr. Smith renewed his license from 1987 to 1997 indicating he was a funeral director only. From 1995 to present the renewal form printed was funeral director/embalmer; however, he has paid the funeral director renewal fee only. Mr. Smith appeared at a hearing before the Board on August 30, 2007 because a complaint was made that he had embalmed the wrong body. Mr. Smith was not a licensed embalmer at that time. The Board voted to suspend Mr. Smith funeral director's license for one year, that he pay a penalty of \$500 and that he complete six hours of continuing education to include state law as it relates to funeral services, which was to be completed within one year. Mr. Smith appeared before the Board during the October 23, 2008 meeting to receive approval to reinstate his funeral director's license. At that time the Board ordered Mr. Smith to take an additional six hours of continuing education since there were no continuing education classes regarding state law. The Board also voted to accept Mr. Smith's application for reinstatement once the three hours of continuing education had been completed. Mr. Smith's funeral director's license was reinstated on October 27, 2008.

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

Mr. Smith plans to attend Piedmont Technical College to refresh his memory. He has been working with Barr-Price Funeral Home for six years.

MOTION

Mr. Nelson made a motion the Board approve Mr. Smith for an apprentice embalmer license. Mr. Tipton seconded the motion, which carried unanimously.

Brunson Funeral Home

MOTION

Mr. Horton made a motion the Board accept the application pending final inspection. Mr. Nelson seconded the motion, which carried unanimously.

Lancaster Crematory

MOTION

Mr. Crawford made a motion the Board accept the application pending inspection and receipt of the crematory training certificate. Mr. Horton seconded the motion, which carried unanimously.

M. Ferguson Funeral Home

MOTION

Mr. Nelson made a motion the Board grant licensure to the additional facility. Mr. Tipton seconded the motion, which carried unanimously.

Palmetto Crematory

MOTION

Mr. Horton made a motion the Board approve the extension until August 6, 2009. Mr. Crawford seconded the motion, which carried unanimously.

Mr. Pennington left the meeting at this time.

Executive Session

MOTION

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

Return to Public Session

MOTION

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

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

Ms. Vessels noted for the record that Mr. Jeff Temples is attending this portion of the meeting via teleconference.

MaHaffey Funeral Home & Cremation Center – Joe Wilson, Manager

MOTION

Mr. Horton moved the Board approve the facility application with the facility obtaining a temporary manager until July 9, 2009, the temporary manager must be in place within 24 hours of this time. On July 9, 2009 Mr. Wilson must contact staff of his status and the change of manager. Mr. Nelson seconded the motion, which carried unanimously.

i. Approval of Consent Agreements

i. Case # 2008-19

MOTION

Mr. Crawford made a motion the Board approve the consent agreement regarding case #2008-19. Mr. Horton seconded the motion, which carried unanimously.

ii. Case #2008-26

MOTION

Mr. Crawford made a motion the Board approve the consent agreement involving case #2008-26. Mr. Nelson seconded the motion, which carried unanimously.

Disciplinary Reports

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

B. Inspections Report – Ernest Adams

Mr. Adams stated he has conducted 38 inspections since the last Board meeting. He stated when he conducts inspections he does the inspections geographically. He is having slight difficulty when the facilities change the GPLs. He noted the facilities forget to change the casket prices when adjusting the GPLs. He does inspect funeral homes whose licenses have been suspended, although Mr. Kennedy is handling the Cave Funeral Home matter.

Mr. Adams stated staff has received questions regarding fetal deaths. He further stated the state law says one thing. He noted some facilities would not cremate the fetal remains under 32 weeks as result of no death certificate from the SC Department of Health and Environmental Control (DHEC). He said the physicians do not regard fetal deaths under 32 weeks as deaths. He presented the members with a new form which has been developed regarding this matter: He stated the crematory would still need a coroner's release to cremate the fetal remains.

Neither a death certificate nor a report of a fetal death is required to authorize cremation of fetal remains.

Mrs. Cubitt stated she read an article from the SC Morticians Association regarding fetal remains and asked Mrs. Lou Ann Pyatt for permission to reprint the article in the Board's newsletter.

Mr. Horton asked if the hospital receives a coroner's release or if it cremates fetal remains in its incinerator does that hospital come under state cremation laws and have to have the incinerator inspected as a crematory. He noted the hospital must be licensed to cremate such remains. Mrs. Cubitt asked if the hospital cremates the fetal remains as medical waste. The Board replied affirmatively. Mr. Adams stated he would research the matter.

C. Number of Open Complaints

Mr. Kennedy had presented the members with his report earlier in the meeting but was not present to give the report at this time. The report was accepted as information.

Administrator's Remarks – Doris Cubitt

A. Advisory Opinions, If Needed, Office of General Counsel

No advisory opinions were given during this meeting.

B. Legislative Update, If Needed, Legislative Liaison Office

Mrs. Cubitt stated Mr. Bryant has been contacted by Representative Sandifer's office regarding the Board's proposed regulations. She further stated Representative Sandifer has questions regarding Regulation 57-14.2, equipment and practices dealing with crematories. Representative Sandifer apparently has concerns with refrigeration large enough to hold three adult human remains. She noted the Board has 30 days to handle the questions.

Mr. Adams stated the inspection report states the facilities have refrigeration large enough for three adult human remains. He contacted Mr. Trezvant, who was involved in drafting the regulations, and received information on why this matter was placed into the proposed regulations. He went on to say refrigeration is not addressed in the regulations. He said staff may need to contact Representative Sandifer's office.

Mr. Spoon suggested staff research all Representative Sandifer's concerns.

C. Customer Care Center – Connie Huffstetler

Mrs. Connie Huffstetler did not appear during this meeting.

D. Discussion on How long an Estate in Probate can be the owner of a Funeral Home

Mrs. Cubitt stated some funeral homes do not have crematories but offer crematory services. She asked if there is a limitation on the name since the crematory is not attached. Discussion on this matter included the word 'center' must have crematory on site; however, services would provide the services, crematory in name must have crematory on site.

Mrs. Cubitt asked if there is a period of time a private funeral home can be run on estate. The Board stated the facility could keep the same name under a different owner. The Board also stated if the individual's name is contained in the name of the funeral home the individual must be a licensed funeral director.

Discussion ensued after which the Board determined would have to act on information contained in an application; however, another party or other parties may appear to protest the application.

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.

Ms. Vessels stated Piedmont Tech asked that the committee meet prior to the August 20, 2009 meeting. She stated she would give dates to Mrs. Cubitt.

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.

Public Comments

No public comments were made during this meeting.

Adjournment

MOTION

Mr. Crawford made a motion the meeting be adjourned. Mr. Horton seconded the motion, which carried unanimously.

The June 15, 2009 meeting adjourned at 1:11 p.m.

The next meeting of the SC Board of Funeral Service is scheduled for August 20, 2009.