

MINUTES
South Carolina Board of Funeral Service
Board Meeting
10:00 a.m., December 15, 2010
Synergy Business Park
110 Centerview Drive, Kingtree Building, Room 108
Columbia, South Carolina

Meeting Called to Order

Eddie Nelson, president, of Columbia, called the regular meeting of the SC Board of Funeral Service to order at 10:11 a.m. Other Board members present for the meeting included: Michelle Cooper, vice president, of Moncks Corner; Glen Crawford, secretary of Lancaster; Thomas Baker, of Kershaw; Kenneth Beasley, of Fountain Inn; C. Brad Evans, of Abbeville; Margery McWhorter, of Columbia; and Jeff Temples, of Columbia.

Staff members participating in the meeting included: Ernest Adams, Inspector; Christa Bell, Litigating Attorney; Doris Cubitt, Administrator; Sandra Dickert, Administrative Assistant; Dean Grigg, Hearing Advice Attorney; Amy Holleman, Administrative Specialist; Tony Kennedy, Investigator; Jeanie Rose, Administrative Specialist; James Saxon, Hearing Advice Attorney; Sheridan Spoon, Assistant Deputy General Counsel; and Michael Teague, Administrative Assistant.

A video of this meeting can be viewed at www.lfr.state.sc.us/POL/Funeral. On the Board's home page, click 'Board Information' and follow the link to the video.

A. Public Notice

Mr. Nelson 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

Mrs. McWhorter delivered the invocation.

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

MOTION

Mr. Crawford made a motion the Board grant Mr. Genoble an excused absence. Ms. Cooper seconded the motion which carried unanimously.

Approval of Minutes for the October 7, 2010 Board Meeting

MOTION

Mr. Evans made a motion the Board approve the minutes of the October 7, 2010 meeting. Ms. Cooper seconded the motion which carried unanimously.

Hearing – Case # 2008-38

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Executive Session

MOTION

Mr. Horton made a motion the Board enter executive session to seek legal advice in this matter. Mr. Tipton seconded the motion which carried unanimously.

Return to Public Session

MOTION

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

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

MOTION

Mr. Horton made a motion the Board accept the Memorandum of Agreement, to issue a public reprimand against the respondent, to issue a \$500.00 fine against the respondent William D. McCutchen, Jr. payable within 30 days of the date of the final order, Mr. McCutchen's license will be suspended for two years beginning with the date of the final order, following that suspension his license will be placed in a probationary status for three years. During that period of suspension the funeral home manager must be approved by the Board in advance and finally the Russell McCutchen Funeral Home, Inc. license is placed in probationary status for a period of five years. Mr. Temples seconded the motion which carried unanimously.

President's Remarks – Eddie Nelson

Mr. Nelson welcomed everyone to the meeting. He further stated one item would be added under unfinished business and that all comments made under Public Comments would be limited to five minutes.

Administrator's Remarks – Doris Cubitt

Mrs. Cubitt made no remarks at this time.

A. OGC – Office of General Counsel

Ms. Bell stated OGC currently has two cases, one of which was heard today. The other case has not yet been scheduled for a hearing.

B. Office of Communications

Mrs. Cubitt presented the members with a report of licenses issued since the last meeting. She noted there are currently 2,088 licensees.

Discussion ensued regarding the Lapsed License Reinstatement Consent Agreements and imposing a \$500.00 fine on each consent agreement.

C Special Projects – Tracey McCarley – Update Financial Statements

Mrs. Cubitt presented the members with a financial report.

Unfinished Business

Approval of New Facility

A. Ocean View Funeral Home of Horry County, LLC – Atu Jamal Williams

On August 31, 2010 the Board received a new facility application from Ocean View Funeral Home of Horry County, LLC. The application reflects Tammy G. Williams is the owner of the facility and Atu Jamal Williams is the proposed manager. Mr. Williams was initially issued a dual license on September 18, 1998 which remains current and in good standing. He does not have a criminal background and lives nine miles from the facility.

The Board heard testimony regarding this matter during the August 7, 2010 meeting. At that time the Board voted to continue this to this meeting, providing that Mr. Williams furnish a corporate resolution from the Secretary of State's Office granting him the ability to serve as manager of Ocean View Funeral Home.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Atu Williams appeared before the Board.

Mr. Williams has completed the Board issued probation.

MOTION

Mr. Evans made a motion the Board accept the application for Mr. Williams to be manager of the facility. Mr. Crawford seconded the motion which carried unanimously.

B. Palmetto Mortuary of South Carolina – Michael Lee Keith

On September 15, 2010 the Board received a new facility application from Palmetto Mortuary of South Carolina. The application reflects that Randall G. Harreld is the owner of the facility and Michael Lee Keith is the proposed manager. Mr. Keith was initially issued a dual license on March 20, 1998 which remains current and in good standing. Mr. Keith does not have a criminal background and lives 17.22 miles from the funeral home. The application also reflects a proposed change of name for the facility. The current facility's name is Palmetto Care Funeral Service and the proposed name change is Palmetto Mortuary of South Carolina.

The Board heard testimony regarding this matter during the August 7, 2010 meeting. At that time the Board voted to continue this to this meeting, providing that Mr. Keith appear at this meeting and show proof of the incorporated documents for the new name change in the facility.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Michael Lee Keith appeared before the Board.

The Board was provided with the zoning requirements as well as the documents from the Secretary of State's Office.

MOTION

Mr. Baker made a motion the Board approve the application since he has provided the information requested. Mr. Horton seconded the motion which carried unanimously.

C. Gilmore Mortuary Service – Sidney Adams, Jr.

On July 13, 2010 the Board received a new facility application from Gilmore Mortuary Service. The application reflects Henry Cecil Gilmore as the owner and proposed manager of the facility. Mr. Gilmore was initially issued a dual license on January 2, 1998 and the license remains

current and in good standing. He lives 12.51 miles from the funeral home and his criminal history report shows an assault and battery charge in 1997 which was a non-conviction. Mr. Gilmore appeared before the Board during the August 2010 meeting at which time the Board approved the application for the funeral home upon proof of the zoning for the funeral home and final inspection and upon proof of a manager that qualifies to meet the South Carolina requirements as a manager but the Board denied Mr. Gilmore as manager of this facility until he shows proof of residency in South Carolina for one year.

Mr. Gilmore appealed the denial of the zoning exemption. He was issued a zoning exemption which states that he cannot hold services at this location. However, he has an agreement with two churches where he can hold visitation or services. Staff provided the Board with an email from the zoning office which states that he cannot have any visitation or services and that the funeral home will be used to meet with the family and prepare the body. They were told that the space will be an office space and did not agree that an assembly is 50 or more people.

It is staff's opinion, based on the information provided, that the location does not meet the definition for a funeral home since it does not have a chapel or parlor in which services may be held. Mr. Ernest Adams has not conducted an inspection since the zoning exception does not qualify the space to be a funeral home.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Mr. Adams did not appear during this meeting.

D. Change of Ownership/New Facility/Change of Facility Manager
1 The Kennedy Mortuary, Inc.

The Board has received a change of ownership/new facility/change of facility manager application from The Kennedy Mortuary, Inc. The application reflects the facility's new proposed manager is Beverly Price Kennedy and the owner is J. E. Chandler, Jr.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Price Kennedy and Foster Chandler appeared before the Board.

The corporation is not changing; however, the facility is requesting change of ownership as well as requesting the ability to sell pre-need contracts.

MOTION

Mr. Horton made a motion the Board accept the application pending approval from the SC Department of Consumer Affairs and receipt of the Articles of Incorporation for this funeral home and to allow Mrs. Cubitt issue the license upon receipt of the information. Mr. Baker seconded the motion which carried unanimously.

Mr. Spoon noted the motion will need to be ratified during the February 8, 2011 meeting.

New Business

- A. Approval of New Facility
1. McMillan-Small Funeral Home and Crematory – David Craig Thomas

On November 22, 2010 the Board received a new facility application from McMillan-Small Funeral Home and Crematory. The application reflects that Stephen L. McMillan, David Craig, Thomas and James Kelcey Dickinson are the owners of the facility and that David Craig Thomas is the proposed manager. Mr. Thomas was initially issued a dual funeral director/embalmer license on January 5, 2004. The license remains current and in good standing. He does not have a criminal background and lives three miles from the funeral home.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

C. Approval of Additional Facility

1. McMillan-Small Funeral Home & Crematory (Crematory) – David Craig Thomas

On November 22, 2010 the Board received a new facility application from McMillan-Small Funeral Home and Crematory. The application reflects that Stephen L. McMillan, David Craig, Thomas and James Kelcey Dickinson are the owners of the facility and that David Craig Thomas is the proposed manager. Mr. Thomas was initially issued a dual funeral director/embalmer license on January 5, 2004. The license remains current and in good standing. He does not have a criminal background and lives three miles from the funeral home.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

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

David Craig Thomas appeared before the Board.

The facility is in an existing facility and will be selling pre-need contracts.

MOTION

Mr. Evans made a motion the Board accept the applications pending receipt of a letter from the SC Department of Consumer Affairs in regard to the pre-need license and a favorable inspection. Mr. Tipton seconded the motion which carried unanimously.

2. Whites Mortuary – Willie Flemming

On November 9, 2010 the Board received a new facility application from Whites Mortuary. The application reflects that the facility owner is William C. White and the proposed manager is Willie J. Flemming. Mr. Flemming was initially issued a dual funeral director/embalmer license on March 10, 2009. The license remains current and in good standing. He does not have a criminal background and lives five miles from the funeral home. He has provided a copy of his driver's license, a copy of his property tax notice and the manager to complete a form. Staff noted his driver's license lists one address and the property tax notice lists another address. Ms. Rose noted Mr. Flemming provided a copy of his marriage license to show the house is in his wife's name and that it is all tied in together.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Willie Flemming and William White appeared before the Board at this time.

Mr. Flemming provided the Board with a copy of the approval from the local zoning board. He is employed as an active reservist with the local air force basis on a full time. He is able to manage the funeral home during the day.

MOTION

Mr. Temples made a motion the Board approve pending receipt of the zoning approval and final inspection. Mrs. McWhorter seconded the motion which carried unanimously.

Mr. Baker and Mr. Crawford left the meeting at 1:15 p.m.

3. Thompson Funeral Home of West Columbia, Inc.
 - (a) 4720 Augusta Rd, Lexington – John Thompson
 - (b) 200 State St, West Columbia – John Thompson

On December 1, 2010 the Board received new facility application from the Lexington and West Columbia locations of Thompson Funeral Home of West Columbia, Inc. The applications reflect the owners of the facilities are Stephen M. Shaffer and FPG Smith Carolina, LLC and John Blake Thompson as the proposed manager. Mr. Thompson was initially issued a dual funeral director/embalmer license on December 19, 2000. The license remains current and in good standing. He does not have a criminal background and lives 11 miles from the funeral home.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Mr. Temples stated he knows Mr. Thompson but feels he is able to make a good judgment in the matter.

John Thompson appeared before the Board.

Ms. Rose noted Mr. Thompson provided a property tax notice prior to the meeting and also noted the address reflects the same address as the other documentation provided.

MOTION

Mr. Tipton made a motion the Board approve the applications pending receipt of a letter from the SC Department of Consumer Affairs and a favorable inspection. Mr. Temples seconded the motion which carried unanimously.

4. Ferguson & Meadows Funeral Home – Lawrence Robert Meadows

On November 15, 2010 the Board received a new facility application from Ferguson & Meadows Funeral Home. The application reflects Lawrence R. Meadows and Marcia Ferguson-McMahand are the owners of the facility and Mr. Meadows is the proposed manager. Mr. Meadows was initially licensed as a funeral director on October 30, 2002 and the license remains current. He does not have a criminal background and lives 6.34 miles from the funeral home.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Lawrence Robert Meadows appeared before the Board.

MOTION

Mr. Temples made a motion the Board approve the application pending receipt of a letter regarding the zoning approval and final inspection. Mrs. McWhorter seconded the motion which carried unanimously.

- D. Apprentice Quarterly Reports
 - 1. Charles Edward Wriston

On October 20, 2010 the Board received a letter from Charles Wriston seeking the Board's approval of his quarterly reports.

Mr. Wriston is missing April, May and June 2006 of his funeral director apprentice quarterly reports and January and February 2010 of his embalmer apprentice quarterly reports. The Office of Licensure and Compliance (OLC) informed Mr. Wriston that he did not need to send in his last report on his embalming apprenticeship. He is requesting the Board accept the copies that he has so his apprenticeship will be complete and he can take the required exams.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Charles Wriston appeared before the Board. He noted he completed his funeral directing apprenticeship in 2006 and completed the embalming apprenticeship at a later time. He stated Charles Oglesby was his preceptor.

Mrs. Cubitt stated the Board has ruled in the past that they would not accept quarterly reports submitted late. She went on to say the Board has also ruled that individual in an apprenticeship program submit the quarterly reports via certified mail and that the individuals contact the agency within a few days to see if the information has been received.

Mr. Wriston stated he was unaware he was supposed to send the information via certified mail and that he was to contact the agency earlier to see if the information had been received.

Mr. Nelson asked that the Board go on record to find a way to inform the public to submit quarterly information to the Board via certified mail.

MOTION

Mr. Evans made to accept his apprenticeship and allow him to sit for the exam. Ms. Cooper seconded the motion which carried unanimously.

Mr. Adams suggested the Board go on record stating it is the Board's policy that the apprenticeship program is a two-year program regardless even if an individual completes the required number of cases prior to the end of the 24 months.

- E. Apprentice Application
 - 1. Thomas Brown

On November 15, 2010 the Board received a dual (funeral director/embalmer) apprentice application from Thomas Brown. Mr. Brown had applied for an apprentice license and appeared before the Board during the February 20, 2003 meeting. During that meeting it was noted that Mr. Brown's criminal history report (SLED report) reflected several arrests and convictions for fraudulent checks. The Board voted to deny Mr. Brown an apprentice license due to the 'pattern of regular criminal activities.' The Board's general counsel noted during that meeting that historically an individual who could present a criminal history report with no arrests and/or

convictions for five years could be issued a license. Mr. Brown's current criminal history report reflects no arrests and/or convictions since 2000.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Thomas Brown appeared before the Board. He waived his right to appear before the Board without an attorney.

Ms. Rose stated Mr. Brown was appearing before the Board to show no new information is contained on his record.

MOTION

Mr. Horton made a motion the Board approve Mr. Brown's apprentice application. Mr. Evans seconded the motion which carried unanimously.

- F. Reciprocity from Connecticut
 - 1. Julie Jambard - FDE

On October 12, 2010 the Board received a dual reciprocity license application from Julie Jambard. Ms. Jambard passed the national exams. She was issued a dual license in Connecticut on April 1, 2010. The Board has not determined if Connecticut meets all of the requirements for South Carolina licensure which is why she appeared before the Board during this meeting.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Julie Jambard and Harvin Bullock appeared before the Board.

Ms. Rose noted Connecticut's apprenticeship program lasts only one year.

Ms. Jambard stated Connecticut requires applicants to attend a mortuary college and to embalm ten bodies prior to graduation as well as embalm 50 bodies and to participate in 50 funeral services during the apprenticeship program. She had to successfully pass the national exam prior to beginning the apprenticeship program.

MOTION

Mr. Evans made a motion the Board accept her application. Mr. Tipton seconded the motion which carried unanimously.

- G. Jose Otto Quintero

On December 2, 2010 the Board received a dual (funeral director/embalmer) apprentice application from Jose Otto Quintero.

Mrs. Cubitt stated Mr. Quintero held an apprentice license from 2004 to 2006 and applied for the extra year in 2008 and license expired in 2009. He received another apprentice license in 2009 which expires this month. He is eligible for one more year as an apprentice and is seeking the Board's approval for that apprentice license. The Board's policy is for those seeking a third apprentice license appear before the Board for approval. He is currently in school and has been submitting his quarterly reports.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Jose Quintero appeared before the Board. He has two remaining semesters of school and will complete his studies in August 2011. He has completed his apprenticeship program.

MOTION

Mr. Horton made a motion the Board grant Mr. Quintero an extension. Mr. Evans seconded the motion which carried unanimously.

Mrs. Cubitt noted for the record that this motion would need to be ratified during the February 8, 2011 meeting.

Mr. Evans left the meeting at this time.

Discussion Items for Vote

A. Consideration of Lapsed License Reinstatement Consent Agreements

A brief discussion ensued regarding the cease and desist orders.

MOTION

Mr. Horton made a motion the Board accept the consent agreements. Ms. Cooper seconded the motion which carried unanimously.

Disciplinary Reports

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

Mr. Kennedy reviewed the December 9, 2010 IRC report with the Board. The report reflects seven cases being recommended for dismissal, two cases being recommended for formal complaint, one case being recommended for a letter of caution, and one case being carried forward to the next IRC meeting.

MOTION

Mr. Tipton made a motion the Board accept the IRC report. Mr. Temples seconded the motion which carried unanimously.

B. Inspections Report – Ernest Adams

Mr. Adams stated he has conducted over 75 inspections. He noted there are continuing problems with GPLs and prices. He went on to say funeral home inspections in McCormick County and Hartsville County should be completed after the first of the year.

Committee Reports

A. Legislative Committee – Tom Genoble, Sheridan Spoon

This committee had no report.

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

This committee had no report.

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

Mr. Horton stated the Board recently made revisions to the quarterly reports and reporting form. He asked if a form could be developed stating the apprentices must send in quarterly reports

within 30 days and via certified mail. He suggested the Board would begin asking for the certified card from post office from the apprentices during their appearances before the Board.

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

This committee had no report.

Public Comments

Gere B. Fulton, PH. D., J. D., Funeral Consumers Alliance of South Carolina
Mr. Fulton briefed the Board regarding the Funeral Consumers Alliance of South Carolina's report.

Mr. Adams made remarks regarding GPLs in the Columbia area. He noted he contacted one local funeral home which has a correct GPL but disseminated the wrong GPL to Mr. Fulton. He stated the simplest way to produce a GPL is in the form of a brochure.

Adjournment

MOTION

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

The December 15, 2010 meeting of the SC Board of Funeral Service adjourned at 3:09 p.m.

The next meeting of the SC Board of Funeral Service is scheduled for February 8, 2010.