

MINUTES
South Carolina State Board of Funeral Service
Board Meeting

10:00 a.m., December 7, 2016
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Wednesday, December 7, 2016

1. Meeting Called to Order

Eddie M. Nelson, President, of Blythewood, called the regular meeting of the South Carolina State Board of Funeral Service to order on December 7, 2016 at 10:00 a.m. Other Board members present for the meeting included: Jeffrey K. Temples, Vice President of Columbia; Charvis K. Gray Secretary, of Piedmont; Stephen R. Gantt, of Greenwood; Wallace McKnight, Jr. of Andrews; William B. Horton, Jr., of Kingstree; Michelle A. Cooper of Moncks Corner; Stephen Lee McMillan, Jr. of Myrtle Beach; D'Michelle P. DuPre, of Chapin; and John L. Petty, of Landrum.

Staff members participating in the meeting included: Donnell Jennings, Advice Counsel, Office of Advice counsel; Tracey Perlman, Disciplinary Counsel, Office of Disciplinary Counsel; Amy Holleman, Administrator; Norma McAllister, Program Assistant; Sharon Cook, Investigator, Office of Investigations and Enforcement; and Ernest Adams and William Poole, Inspectors, Office of Investigations and Enforcement.

Members of the public attending the meeting included: James R. Smith of Cooner Funeral Home, LLC, Bamberg, SC; Joshua Adam Gordon of The Gordon Mortuary of Gaffney; Ashley Gordon of The Gordon Mortuary of Gaffney; Jeffrey B. Johnson, Boatwright Funeral Home; Teressa Boatwright, Boatwright Funeral Home; Elizabeth Simmons, South Carolina Mortician Association; Jacob Flowers, South Carolina Department of Consumer Affairs; Mark O'Steen of Spartanburg; and Rolanda Dunlap.

A. Public Notice

Mr. Nelson announced that public notice of this meeting was properly posted at the South Carolina State Board of Funeral Service office, Synergy Business Park, Kingstree Abuilding, 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.

2. Introduction of Board Members and Persons Attending the Meeting

The Board members, staff, and all other persons attending the meeting introduced themselves.

3. Approval of Excused Absence

Mr. Eddie Nelson stated he planned to leave the meeting at about 11:30 a.m.

MOTION

Mr. Horton made a motion to approve the President leaving early.
Ms. Cooper seconded the motion, which carried unanimously.

4. Approval of Minutes for the October 27, 2016 board meeting.

Mr. Nelson called for a motion to approve the minutes for the October 27, 2016 board meeting.

MOTION

Mr. McMillan made a motion to approve the minutes as presented.
Dr. DuPre seconded the motion, which carried unanimously.

5. President's Remarks – Eddie Nelson

Mr. Nelson extended holiday greetings to everyone. Mr. Nelson asked those in attendance to take a moment of silence honoring the fallen on the 75th Anniversary of the attack on Pearl Harbor.

Mr. Nelson called for a motion for the Board to present a resolution to Mr. Mike Squires who will be retiring from the South Carolina Funeral Directors Association. The resolution and plaque, thanking him for his service and hard work will be presented to Mr. Squires at the February 2017, mid-winter conference. Mr. Nelson agreed to provide staff with the verbiage for the resolution, which will be presented to the Board for approval at the January 31, 2017 meeting.

MOTION

Mr. McMillan made a motion to present the resolution with a plaque to Mr. Mike Squires.
Ms. Cooper seconded the motion, which carried unanimously.

6. Presentation of Service Plaque – Mark O' Steen

Mr. Mark O'Steen was presented with the South Carolina State Board of Funeral Service plaque, in recognition of his hard work and time served on the Board.

7. Administrator's Remarks – Amy Holleman

A. Ms. Holleman presented the financial report informing the Board that the cash balance at the end of September 2016 was -\$360,569.91.

Ms. Holleman informed the Board that there are currently 68 individuals and 7 facilities licenses that have not been renewed. Ms. Holleman informed the Board that for unlicensed individuals and/or facilities that renew after December 2016, there will be an additional one year license fee to pay prior to the issuance of the license.

Ms. Holleman informed the Board that the 113th International Conference Annual Meeting will be held Tuesday, February 28, 2017 through Thursday, March 2, 2017 in Hilton Head, South Carolina. Subject to monetary considerations the Board is authorized to approve attendance to the conference for the Administrator and up to two Board members.

Mr. Nelson called for motion to authorize Ms. Holleman and two Board members to attend the conference. Dr. DuPre and Mr. Gray volunteered to attend as the Board members.

MOTION

Mr. McMillan made the motion for the Board to authorize Ms. Holleman, Dr. DuPre, and Mr. Gray to attend the conference. Mr. Temples seconded the motion, which carried unanimously.

Mr. Nelson thanked Ms. Holleman

8. Reports

A. Inspection Report

Mr. Poole informed the Board that he and Mr. Adams conducted 95 inspections between October 20, 2016 and November 30, 2016.

B. Investigative Review Committee (IRC) Report – Sharon Cook

Ms. Cook requested the Board review and approve the IRC report and recommendations to dismiss cases 2016-32; 2016-33; 2016-47; 2016-48; 2016-52; 2016-53; 2016-55; 2016-57; and 2016-58; to issue a letter of caution to cases 2016-54 and 2016-56; and to send forward for a formal complaint cases 2016-46 and 2016-59. Mr. Nelson called for a motion to approve the IRC recommendations.

MOTION

Mr. Temples made a motion to approve the IRC recommendations.
Ms. Cooper seconded the motion, which carried unanimously.

C. Office of Investigations and Enforcement (OIE) Report – Sharon Cook

Ms. Cook stated the Office of Investigations and Enforcement (OIE) currently has a total of 83 cases. The report shows the following: 28 closed; 3 do not open case; 1 open: 14 pending Board action, 79 closed cases from January 1, 2016 through November 28, 2016, and 4 do not open cases. There are 0 active cases as of November 28, 2016. Mr. Nelson called for a motion to accept the report as information only. Mr. Nelson thanked Ms. Cook for the reports

MOTION

Mr. Temples made a motion to accept the report as information only.
Ms. Cooper seconded the motion, which carried unanimously.

D. Office of Disciplinary (ODC) Counsel – Tracey Perlman

Ms. Perlman presented the Office of Disciplinary Counsel (ODC) report as follows; 29 open cases, 18 pending action, 6 pending hearings, 1 pending a Consent order; 4 pending final orders, and 6 closed on/or before October 20, 2016. Mr. Nelson called a motion to receive the report as information only. Mr. Nelson thanked Ms. Pearlman for the report.

MOTION

Mr. McKnight made a motion to accept the report as information only.
Mr. Gray seconded the motion, which carried unanimously.

Mr. Nelson stated the agenda will be amended to now hear items, 11, 12, and 13.

Old Business

9. A. Change of Manager

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

1. Cooner Funeral Home LLC – James Ronald Smith

Ms. Holleman informed the Board that Mr. Smith's application was complete. He is requesting to be approved as the manager of Cooner Funeral Home. Ms. Holleman stated for the record, Ms. Formby had child care issues that conflicted with the Board meeting. Due to her obligation Ms. Formby requested to be excused from appearing before the Board. The request was granted by Mr. Nelson on behalf of the Board.

Mr. James Ronald Smith, the proposed manager of Cooner Funeral Home, was present for the hearing. Mr. Smith informed the Board he was aware of the responsibilities of a manager. Mr. Smith stated the funeral home does not offer pre-need.

MOTION

Mr. Horton made a motion to approve Mr. James Ronald Smith as the manager of Cooner Funeral Home.

Ms. Cooper seconded the motion, which carried unanimously

New Business

Application Hearings

10. A. New Funeral Home or Change of Ownership

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

1. The Gordon Mortuary of Gaffney – Joshua Adam Gordon

Ms. Holleman informed the Board that the application is a change of ownership. Mr. Gordon will be purchasing the facility. Ms. Holleman informed the Board the proof of purchase, Secretary of State documents, tax ID number, favorable letter from Consumer affairs, and the inspection are pending on the finalization of purchase with the Board's approval.

Mr. Joshua Adam Gordon was present on behalf of the funeral home. Mr. Gordon told the Board that the seller has not been cooperative. Mr. Gordon stated the materials have not been submitted because he is in the process of creating a corporate entity, naming himself as the sole owner. Mr. Gordon informed the Board that a name has not been selected for the corporation. Mr. Gordon stated he would be the sole shareholder. Ms. Holleman stated for the record that Mr. Gordon is the current manager of Gordon Mortuary Inc., Blacksburg, SC. Mr. Gordon stated he is a twenty percent owner of Gordon Mortuary Inc., Blacksburg, SC, which he will retain after the purchase of the new facility.

Executive Session

MOTION

Mr. Cooper made a motion to go into Executive Session to receive legal advice in this matter.

Mr. McKnight seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Horton made a motion that the Board return to public session

Mr. McMillan seconded the motion, which carried unanimously.

Mr. Nelson stated, for the record, that no votes were taken during executive session

MOTION

Ms. Cooper made a motion that the issue be continued pending that the incorporation and necessary materials be submitted to the Board staff.

Mr. McMillan seconded the motion, which carried unanimously.

B. 2. Boatwright Chapel on Main – Jeffery B. Johnson

Mr. Jeffery B. Johnson and Ms. Teresa Boatwright were present on behalf of the Funeral Home. Ms. Holleman informed the Board that the funeral home received a cease and desist in February 2016, because the funeral home was unable to obtain a manager after the previous manager's death in December of 2015. Ms. Holleman informed the Board that the proposed manager, Mr. Johnson, currently resides in Greenville, SC, and he informed staff that he will change his residency and employment, if approved as manager. Mr. Johnson confirmed, if approved as manager, he will relocate to Darlington and live in the funeral home. Mr. Johnson stated he understands the responsibilities of the manager. Mr. Johnson stated he is not aware of any pre-need contracts with the funeral home.

Ms. Holleman informed the Board that Ms. Boatwright requests the Board approve the relocation of the parent company Boatwright Chapel on Main, Darlington, SC due to damage sustained by the hurricane at the Boatwright Funeral Home Bishopville location.

MOTION

Mr. Horton made a motion that the manager application be approve, and Boatwright Chapel on Main Home will be the parent funeral home, pending inspection.

Mr. McKnight seconded the motion, which carried unanimously.

The cease and desist order will remain in effect until Mr. Johnson moves to his Darlington resident.

11. Discussion: Funeral Director Role in Reinterment After Natural Disaster

Ms. Holleman informed the Board due to the recent natural disasters the question has been asked whether a Funeral Director is required to be present for the reinterment of a grave that was disinterred due to a natural disaster. Ms. Holleman stated that South Carolina statute 40-19-260 states a licensed funeral director must be at the place of the funeral and committal services.

The Board concluded a licensed Funeral Director must be present at the reinterment.

MOTION

Mr. Horton made a motion after a natural disaster if a previously interred casket or vault comes out of the ground that a Funeral Director must be at the reinterment, and that the required DHEC forms be signed and documented.

Mr. McMillan seconded the motion, which carried unanimously.

10. Approval of Consent Agreement (CA) – Tracey Perlman

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

1. Case No. OIE 2016-37

Ms. Perlman informed the Board the Respondents has entered into a Consent Agreement, which Ms. Perlman presented to the Board. The Respondent, Thomas McAfee Funeral Home – NorthWest, is licensed by the South Carolina Board of funeral Service (“Board”) as a Funeral Establishment located in Greenville, South Carolina. Respondent was duly licensed at all times relevant to the matter set forth herein.

Respondent stipulates and admits that

- a. Respondent is supervised by Funeral Director John F. McAfee (License No.: FD.1988 FD)
 - b. On February 24, 2016, the Respondent entered into a funeral contract to perform the burial of Elizabeth Hogg, an individual who passed the day before. The family of the decedent (“Complainant”) was given a Statement of Funeral Goods and Services Selected stating that the total funeral home charges for the funeral were \$8,311.80. The Respondent informed the Complainant that the charges included all funeral goods and services and burial services, including the opening and closing of the grave, which Complainant was told would cost \$485.00. A copy of the Statement of Funeral Goods and Services Selected dated February 24, 2016 is attached hereto and incorporated herein as Exhibit #1.
 - c. Respondent was given a check dated February 24, 2016 for the full amount listed in the Statement of Funeral Goods and Services Selected. Two months after the funeral services were completed, the Complainant received a Detailed Customer History from the Respondent stating that there was a balance due of \$925.00 for Open/Close Grave expenses. A copy of the Detailed Customer History dated April 29, 2016 is attached hereto and incorporated herein as Exhibit #2.
 - d. A complaint was filed against Respondent stating that the price should have been listed accordingly and that the cost of the opening and closing was discussed with an individual on staff for Respondent and listed under "Use of Equipment & Staff Graveside Only" for the price of \$485.00. Respondent states that that the opening and closing charges were inadvertently left off the contract by mistake.
4. Respondent waives any further findings of fact with respect to this matter.

CONCLUSIONS OF LAW

1. Respondent admits that the conduct in this matter is in violation of S.C. Code Ann. Regs. § 57-13(A)(l) (1976, as amended) in that Respondent failed to fully inform the family of the deceased concerning the time, the place, and details of the funeral service;
2. Respondent admits that the conduct in this matter is in violation of S.C. Code Ann. Regs. § 57-13(A)(l) (1976, as amended) in that Respondent failed to provide a statement of goods and services for the family to approve showing the price of the services and merchandise that was selected, the price of each of the supplemental items of the service, and the amount involved for each of the items for which the funeral director will advance monies as an accommodation to the family;
3. Respondent hereby waives any further conclusions of law with respect to this matter.

THEREFORE, IT IS AGREED, WITH RESPONDENT'S CONSENT, THAT:

1. Respondent's license shall be publicly reprimanded.
2. Respondent shall pay a civil penalty of Five Hundred Dollars (\$500.00) to the Board within thirty (30) days of the effective date of this Agreement. Said fine is not deemed paid until received in full by the Board. Failure to pay the fine as ordered may result in a suspension of the referenced licenses until such time as the civil penalty is paid in full.

MOTION

Ms. Cooper made a motion to approve the Consent Agreement.
Dr. DuPre seconded the motion, which carried unanimously.

Mr. Horton moved to recess at 11:31 a.m. Mr. Nelson was excused from the remainder of the meeting.

Disciplinary Hearing

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

1. Case No.: 2015-41

Mr. Temples called the session to order at 11:48 a.m.

Ms. Perlman presented the case to the Board. Ms. Perlman stated for the record Mr. Nelson has left, and Mr. Temples is presiding. Ms. Rolanda Elaine Dunlap was present on her behalf. Mr. Leonard Hicks was subpoenaed for the hearing, but he was not in attendance.

Ms. Perlman submitted the Notice of Hearing and the subpoena for Mr. Hicks to appear for the hearing with Certificate of Service, which was entered into the record. Ms. Perlman stated she has not heard from Mr. Hicks.

Ms. Perlman stated the problem in this case is that the entire case is based on "he said, she said" and would not be complete without Mr. Hicks present to state his assertions.

Ms. Perlman stated Ms. Dunlap is also requesting credit for the cases Mr. Hicks stated she did not complete.

Executive Session

MOTION

Ms. Cooper made a motion to go into Executive Session to receive legal advice
Mr. Chavis seconded the motion, which carried unanimously

Return to Public Session

MOTION

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

Mr. Temples, stated, for the record, that no votes were taken during executive session

Mr. Jennings noted that the Board has authorized him to state to Ms. Perlman that she has the discretion to go forward today without Mr. Hicks or ask for a continuance.

MOTION

Mr. Horton made a motion on Ms. Perlman's request that the case be continued to a later date.
Mr. McMillan seconded the motion, which carried unanimously.

12. Executive Session for Legal Advice, if needed

13. Public Comments (no votes taken)

No comments were made by the public.

13. Adjournment

MOTION

Mr. Petty made a motion to adjourn the meeting
Mr. Gray seconded the motion, which carried unanimously.

Mr. Horton and Mr. Temples acknowledged Mr. McMillan will discuss a matter "of a tremendous good deed" with the administrator to be recognized at the February 2017 Board meeting. Mr. Temples, after ensuring there being no further business to discuss, adjourned the December 7, 2016 meeting for the South Carolina State Board of Funeral Service at 12:10 p.m.

The next meeting of the South Carolina Board of Funeral Service is scheduled for January 31, 2017 at 10:00 a. m., at Synergy Business Park, 110 Centerview Drive, Kingstree Building, Room 108, Columbia, South Carolina.