

MINUTES
South Carolina Board of Funeral Service
Board Meeting

10:00 a.m., Tuesday, April 3, 2013
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Wednesday, April 3, 2013

1. Meeting Called to Order

Kenneth E. Beasley, of Fountain Inn, President, called the regular meeting of the SC Board of Funeral Service to order at 10:12 a.m. Other Board members present for the meeting included: Thomas E. Baker, II, Vice President, of Kershaw; Wallace McKnight, Jr., Secretary, of Andrews; Charlie Bradford Evans, of Abbeville; Mark R. O'Steen, of Spartanburg; John L. Petty, III, of Landrum; and, Jeffrey K. Temples, of Columbia.

Staff members participating in the meeting included: Wendi Elrod, Program Assistant; Jeanie Rose, Administrative Assistant; Doris Cubitt, Administrator; Sara McCartha, Advice Counsel, Office of Advice Counsel; Andrew Rogers, Office of General Counsel; Ernest Adams, Inspector, Office of Investigations and Enforcement; Sharon Wolfe, Chief Investigator, Office of Investigations and Enforcement; Jacquetta Wilson, Administrative Assistant, of Operational Management; and, Sharon Cook, Investigator, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Danny Collins, of SC Department of Consumer Affairs (SCDCA); Matalie Mickens, of SC Department of Consumer Affairs (SCDCA); Scott Fowler, of the SC Funeral Directors Association (SCFDA); Lou Ann Pyatt, SC Morticians Association (SCMA); Elizabeth Simmons, SC Morticians Association (SCMA); Luther Johnson, of Luther Johnson Funeral Home; Sippie Johnson, of Luther Johnson Funeral Home; Brandon Frederick, of B. L. Frederick Funeral Home; Leroy McKenzie, of Summerton Funeral Service; Desmond Brown, of Summerton Funeral Service; G. Steven Cater; Jody Yarborough, of J. K. Yarborough Mortuary; Wayne Bennett, of Ferguson Funeral Chapel; Ada Ferguson, of Ferguson Funeral Chapel; Wayne Brown, of Forest Hills Funeral Home; Chris Bennett, of Legacy Funeral Services; Graylon Scott, of Legacy Funeral Services; William White, of Whites Mortuary; Joan L. White, of Whites Mortuary; C. Rauch Wise; Julie Wilhite; Tamala Randolph, of StoneMor; J. Britt; Jeff Britt; Paul A. Simmons, of Simmons Funeral Home; Lamont Stevens; Jenkins-Stevens Chapel of Serenity; Lewis Hicks; Tiffany Gibson, of SC Department of Consumer Affairs (SCDCA); Sharon Stahl, of The Island Funeral Home; Ron Clamp, of Memorial Design; Sallie Clamp, of Memorial Design; Richard Keith Thompson, of SC Franks & Thompson Funeral Home; and, Ulrick A. Thompson, of SC Franks & Thompson Funeral Home.

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

a. Public Notice

Mr. Beasley announced that public notice of this meeting was properly posted at the SC 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.

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 Absences

William B. Horton, Jr., of Kingstree; and, Michelle Cooper, of Moncks Corner; were granted excused absences.

4. Approval of Minutes for the February 5, 2012, Meeting

MOTION

Mr. Baker made a motion that the Board approve the minutes for the February 5, 2013, meeting. Mr. Temples seconded the motion, which carried unanimously.

5. President's Remarks – Kenneth Beasley

Mr. Beasley welcomed everyone to the meeting and thanked everyone for attending.

6. Administrator's Remarks – Doris Cubitt

Ms. Cubitt stated she was at the Conference annual meeting and spoke with many people in other states. The Federal Trade Commission (FTC) is doing sweeps, and they have issued around \$18,000, \$28,000 in fines. She stated that one person got charged \$32,000 for refusing to let the people furnish their own casket.

She stated that the board discussed unclaimed bodies, what to do when the family does not act, and that type of thing. She stated that Oklahoma has a nicely written paper on unclaimed bodies, and she shared a copy with the Board members to review.

She informed the board that New Jersey only issues one type of license, and it has to be a dual funeral director/embalmer license. She stated Maryland doesn't require the facility be licensed. She stated that Oklahoma also has in their statute that if the funeral home isn't paying their vendors, that is a violation.

She informed the Board that Alkaline Hydrolysis is in nine states now, and there was some discussion on it being provided in SC. She stated that Alkaline Hydrolysis is heat only so it cannot be done in SC since the statute states heat and flame.

Ms. Cubitt informed the Board that Costco sells caskets, but they do not sell or bill to anyone in SC, and their website reflects that. She stated Walmart is also selling caskets, and they are working on getting everything updated so they will not sell or ship to anyone in SC, and they will be updating their website.

7. Reports

A. Inspection Report

Mr. Adams reported that there have been about 104 inspections completed since February 5, 2013.

B. Investigative Review Committee (IRC) Report

Ms. Wolfe said the IRC recommended two cases to be dismissed, cease and desist one case, a letter of caution be issued for one case, and formal complaints be issued on three cases.

MOTION

Mr. Evans made a motion that the Board approve the IRC recommendations. Mr. O'Steen seconded the motion, which carried unanimously.

C. OIE Report

Ms. Wolfe stated that there are 16 active cases, eight are pending board action and 29 cases have been closed from January 1, 2013, to January 25, 2013.

D. Office of General Counsel

Mr. Rogers presented the Board with the report from the Office of General Counsel (OGC). He included in the report that OGC opened 23 cases, 21 cases are pending action, one case pending consent agreement which will be heard today, nine cases closed, and one has appealed.

8. Approval of Consent Agreement

Case No. OIE 2012-8 – Marcia Ferguson McMahand

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

Mr. Rogers stated that Ms. McMahand was operating and received funding for an unlicensed funeral establishment.

Mr. Rogers informed the Board that the State and Ms. McMahand agreed to a consent agreement for a public reprimand, probation for two years, and a \$500 fine to be paid within 30 days of the date of the consent agreement

MOTION

Mr. Petty made a motion to approve the recommendations. Mr. Temples seconded the motion, which carried unanimously.

New Business

9. Application Hearings

Facility

1. B L Frederick – Brandon L. Frederick

Mr. Frederick stated that he is opening a new funeral home.

MOTION

Mr. Temples made a motion the board approve this application pending passing final inspection. Mr. Evans seconded the motion, which carried unanimously.

2. Forest Hills Funeral Home – John Wayne Brown

Mr. Brown stated he has been the manager of Forest Hills Funeral Home for a number of years and is now purchasing the funeral home. Ms. Rose stated that the funeral home was inspected on January 17, 2013.

MOTION

Mr. Evans made a motion that the Board approve this application honoring the current inspection report. Mr. Temples seconded the motion, which carried unanimously.

3. Luther Johnson Funeral Home – Luther Johnson, III

Mr. Evans stated he knows Mr. Johnson and will recuse himself if Mr. Johnson wishes. Mr. Allen stated they are not making that request.

Mr. Rose stated that the application is missing the tax ID number and a letter from Ms. Johnson stated that her step-son lives with her.

Mr. Karl Allen, Esq. is representing Mr. and Ms. Johnson. He stated that Mr. Johnson's father was approved by the Board on December 13, 2012, for new ownership of the funeral home. Unfortunately he passed away before he could finalize all requirements to open the funeral home. Since Mr. Johnson's passing the funeral home went to his wife and his son. Now Mr. and Ms. Johnson are ready to open the funeral home; however when it was approved on December 13, 2012, Mr. Johnson, Jr. was the sole owner and manager. Since he passed away, his son and wife need to apply for an ownership and manager change. Mr. Johnson stated that the funeral home was inspected five days after his father passed away.

MOTION

Mr. O'Steen made a motion that the Board approve this application pending the tax ID number and letter from Ms. Johnson. Mr. O'Steen seconded the motion, which carried unanimously.

4. SC Franks & Thompson Funeral Home – Richard Keith Thompson

Mr. Beasley stated he will recuse himself if need be. Mr. U. A. Thompson stated that will not be necessary.

Mr. U. A. Thompson stated that he and Mr. Richard Keith Thompson are opening another parent funeral home since the other funeral home is closed.

MOTION

Mr. Evans made a motion the board approve this application with Mr. Richard Thompson as manager pending passing final inspection, submitting zoning documents, and pay any necessary fees that are owed. Mr. Petty seconded the motion, which carried unanimously.

5. Summerton Funeral Home, LLC – Leroy E. McKenzie

Mr. McKenzie stated that this is a partnership and name change.

MOTION

Mr. Baker made a motion that the Board approve this application. Mr. O'Steen seconded the motion, which carried unanimously.

6. The J K Yarborough Mortuary – Jody Kyle Yarborough

Mr. Yarborough stated that he is opening a new funeral home, with himself as manager. He stated he currently works at Eggers Funeral Home but, once he is approved, he will only work at this funeral home. He stated that the word in the community is that Mr. Eggers will also own this mortuary but that is incorrect. He stated this was Lanford Funeral Home Cedar Hill Chapel that was owned by Terry G. Lanford.

MOTION

Mr. Baker made a motion that the Board approve this application pending passing final inspection. Mr. Petty seconded the motion, which carried unanimously.

Additional Facility

1. Ferguson Funeral Chapel – Ada Ferguson

Ms. Ferguson stated that she is opening a chapel for her funeral home. Ms. Rose stated that Ms. Ferguson has moved so she will be within a 25 mile radius of both locations since she will be manager of both.

MOTION

Mr. O'Steen made a motion the board approve this application pending passing final inspection. Mr. Petty seconded the motion, which carried unanimously.

2. Jenkins-Stevens Chapel of Serenity – Lamont Stevens

Mr. Stevens stated that he is purchasing Jenkins Funeral Home and will be the proposed manager. He indicated that this will be a chapel of his current funeral home.

MOTION

Mr. Evans made a motion the board approve this application pending passing final inspection and submitting zoning documents. Mr. Temples seconded the motion, which carried unanimously.

3. Lowcountry Crematory – Cremation Simplified – Sharon R. Stahl

Ms. Stahl stated that, will be opening a chapel for her funeral home.

MOTION

Mr. Baker made a motion the board approve this application pending passing final inspection. Mr. Evans seconded the motion, which carried unanimously.

4. Simmons Funeral Home, Orangeburg, SC – Paul A. Simmons

Mr. Simmons stated that he is opening a branch funeral home, and he is the proposed manger.

MOTION

Mr. Evans made a motion the board approve this application pending passing final inspection. Mr. McKnight seconded the motion, which carried unanimously.

5. Simmons Funeral Home, Santee, SC – Paul A. Simmons

Mr. Simmons stated that he is opening a branch funeral home, and he is the proposed manger.

MOTION

Mr. Evans made a motion the board approve this application pending passing final inspection. Mr. McKnight seconded the motion, which carried unanimously.

6. Legacy Funeral Services – Christopher G. Bennett

Mr. Brown stated he is opening a branch funeral chapel for Forest Hills Funeral Home.

MOTION

Mr. Temples made a motion the board approve this application pending passing final inspection and submitting zoning documents. Mr. O'Steen seconded the motion, which carried unanimously.

Crematory Facility

1. Simmons Funeral Home – Paul A. Simmons

Mr. Simmons stated that he is opening a branch funeral home and he is the proposed manger.

MOTION

Mr. Evans made a motion the board approve this application pending passing final inspection. Mr. McKnight seconded the motion, which carried unanimously.

Break for Lunch 11:42am – 1:05pm

Location Change

1. Greenlawn Crematory – William S. Altman

Mr. Temples recused himself since he works for the company that owns this facility.

Mr. Altman stated that they are opening a crematory at the funeral home, and he is the proposed manger.

MOTION

Mr. Baker made a motion the board approve this application pending passing final inspection. Mr. O'Steen seconded the motion, which carried unanimously.

2. South Carolina Cremation Society – William S. Altman

Mr. Temples recused himself since he works for the company that owns this facility.

Mr. Altman stated that they are a direct cremation facility, and he is the proposed manger.

MOTION

Mr. Baker made a motion the board approve this application pending passing final inspection. Mr. O'Steen seconded the motion, which carried unanimously.

Retail Sales Outlet (Casket Store)

1. Memorial Design – Sallie Shealy Clamp

Ms. Clamp stated that she and Mr. Clamp are opening a retail sale outlet (casket store). Mr. Clamp stated that they currently have a monument company and are incorporating a retail sales outlet into the business.

MOTION

Mr. O'Steen made a motion the board approve this application pending passing final inspection. Mr. Baker seconded the motion, which carried unanimously.

Mr. Evans asked Ms. Cubitt why so many applications come before the Board. She stated that she hasn't been given the authority to approve any funeral establishment applications except for manager change.

MOTION

Mr. Evan made a motion the board give Ms. Cubitt the authority to approve all additional location (branch) applications as long as it is a clear application. Mr. O'Steen seconded the motion, which carried unanimously.

Request to Reinstate License

1. G. Steven Cater – Funeral Director/Embalmer

Mr. Wise stated he is representing Mr. Cater in the matter of reinstating his license. He stated that Mr. Cater has a felony in his criminal background; however, back in 2002, when he was convicted, it was not considered a felony. He stated that Mr. Cater was released in 2005, and has had no more violations.

Executive Session

MOTION

Mr. Evans made a motion that the Board enter into executive session for legal advice. Mr. Petty seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Petty made a motion that the Board return to public session. Mr. O'Steen seconded the motion, which carried unanimously. Mr. Beasley noted for the record that no official action was taken during executive session.

MOTION

Mr. O'Steen made a motion that the Board deny Mr. Cater's request based on Section 40-19-230, the board can deny a license for a crime of moral turpitude, and the Board views this as a crime of moral turpitude. Mr. Temples seconded the motion, which carried unanimously.

Request to accept Apprenticeship expired over 5 years and take SC Law exam

1. Julie Porter Wilhit - Funeral Director/Embalmer

Ms. Wilhit requested that the Board accept her apprenticeship even though it expired over five years ago. She stated that she completed mortuary college and passed the national exams for both the arts and science portions. She stated that she wishes to take the SC law exam.

MOTION

Mr. Evans made a motion that the Board accept Ms. Wilhit's request and grant her 90 days to pass the SC law exam from the date of this meeting. Mr. Evans seconded the motion, which carried unanimously.

Request for Apprenticeship, applicant has other full-time employment

1. Kendall Jamar Kirby - Apprentice Funeral Director/Embalmer

Mr. Kirby was not present.

2. Steven T. Nathaniel – Apprentice Embalmer

Mr. Nathaniel stated that he is licensed as a funeral director and wishes to serve the embalming apprenticeship at Job's Mortuary under Ross P. McClary, but the embalmer of record is only a trade embalmer.

Ms. Cubitt stated that Mr. Nathaniel will be doing the apprenticeship at one funeral home, but the embalming supervisor owns his own funeral home at a different location and does trade embalming.

Mr. Evans inquired if the supervisor embalms for Job's Mortuary, and Ms. Rose stated he does. Mr. Evans asked if the supervisor will be coming to his location to embalm the bodies, and Mr. Nathaniel stated that is correct. Mr. Evans asked, just for clarification, that he does not want to travel with his supervisor to other funeral homes, and the supervisor is already at that location to embalm. Mr. Nathaniel stated that is correct.

Ms. Cubitt stated since Mr. Nathaniel is already a licensed funeral director, we were concerned about him getting his 35 hours a week under his supervisor since his supervisor only comes when they have a case.

Mr. Temples asked if Mr. McClary the embalmer of record for Job's Mortuary and Ms. Cubitt stated that is correct. Ms. Cubitt stated that she spoke with Mr. Nathaniel inquiring since he has to have 35 hours a week would it not be better to work at Mr. McClary's funeral home. He stated the reason he doesn't want to do that is because they don't get enough cases for him to complete his apprenticeship.

Mr. Evans recapped that Mr. Nathaniel is already working full time at Job's Mortuary as a licensed funeral director. Mr. McClary is the trade embalmer at Job's Mortuary when they have a call. So all he wants to do is serve his embalming apprenticeship under Mr. McClary, which is coming to their location to embalm anyway. Mr. Petty inquired on how many cases Job's Mortuary has a year. Mr. Nathaniel stated that they have about 150 a year.

MOTION

Mr. Evans made a motion for the board grant Mr. Nathaniel's request. Mr. Petty seconded the motion, which carried unanimously.

3. Joan Laverne White – Apprentice Funeral Director

Ms. White wishes to serve her apprenticeship at Whites Mortuary in Sumter, SC under her husband's supervision. Ms. Rose informed the Board that Ms. White's application shows that she resides in North Carolina and works as a district manager with Aramark Health

Care in Atlanta, GA. Ms. White stated that she works at home electronically. Ms. White stated that since this is a family business she is at the funeral home often.

Mr. White stated that they reside in Sumter, SC and can show a copy of the lease agreement.

MOTION

Mr. Baker made a motion that the board approve Ms. White's request to serve her apprenticeship pending providing proof of the lease agreement showing the lease in SC since her legal residence is NC. Mr. Temples seconded the motion, which carried unanimously.

10. Discussion item regarding Consumer Alliance report

Mr. Cubitt and Mr. Horton discussed that the Funeral Service Board take on the project of reviewing all General Price List (GPL), Casket Price List (CPL) and Outer Burial Container Price List (OBPC) for all funeral establishments in SC. She stated that the Board can schedule a work session so all Board members can review the price lists.

Ms. Cubitt stated she can contact the FTC to see if the language can be changed or does the language need to be the same on disclosures.

11. Review of Statute and Regulations

Governor Haley's Executive Order to review all statutes, regulations, policies and procedures to identify possible over-regulation.

Ms. McCartha read Governor Haley's Executive Order. On February 12, 2013, Governor Haley issued Executive Order 2013-02 which created the Governor's Regulatory Review Task Force. This tasked all cabinet agencies to review all statutes, rules, regulations, and policies, to identify burdens on SC businesses. On February 20, 2013, Governor Haley requested that all Boards and Commissions administered by LLR conduct regulation evaluations to assist the agency with its discharge of its duties. Specifically, all Boards and Commissions are asked to follow these guidelines. In evaluating statute, rules, regulations, and policies each agency should consider factors to include, but not limited to, their necessity, complexity, efficiency, effectiveness, redundancy, public complaints and comments, short and long term effects, impact on all effected persons, intended and un-intended and un-intended negative consequences.

As each Board or Commission completes its review the Advice Counsel assigned to that Board or Commission will prepare a summary to be submitted to a member of LLR senior management team. The senior management team will further review statute, rules, regulations, and policies to identify any additional suggestions.

The comments received from the public, feedback from the Boards and Commissions and senior management review will be will be compiled and edited for a conclusion to the agency's report which is due by May 15, 2013.

- Ms. McCartha asked Ms. Cubitt what are the common complaints from licensees. Ms. Cubitt stated that the most common complaints are holding bodies for non-payment and unclaimed bodies.

Mr. Evans stated one of the biggest complaints he has heard is a funeral director may know that another funeral director is doing wrong but doesn't want to be the whistle blower and signing their name to the complaint. And some of the issues he hears from other funeral directors are when a funeral home doesn't have a manager and hasn't notified the Board.

Mr. Beasley stated in his opinion, a lot of non-licensed owners of funeral homes are getting away with a lot of stuff because they have nothing to lose. Ms. Cook stated that is correct because the board has no jurisdiction.

- Ms. McCartha asked what some of the common complaints from the public are. Ms. Cubitt stated some of the complaints that are received are for unlicensed practice and no signed contract at time of service.
- Ms. McCartha asked what can be done to speed up staff processes. Ms. Cubitt stated that would be short of staff. She stated that our staff of four works for three different boards. She stated we are utilizing online renewals, which seem to be working well.

Mr. Evans stated that we have people coming from other states to South Carolina hoping to practice funeral service. And the SLED doesn't catch everything since it is only statewide for South Carolina. So he wishes the Board could require a FBI check, but we can't currently. Ms. McCartha stated that the FBI check is run through NCIC (National Crime Information Center) which is a law enforcement tool. She stated that she is unsure if you have to have a law enforcement credentials to have that or not.

12. Committee Reports

A. Legislative Committee – Brad Evans
This committee had no report.

B. Examination/CEU/Education – Jeff Temples, Mark O'Steen
This committee had no report.

C. Regulatory Compliance (Federal and State) / FTC / OSHA / ADA / PreNeed – Billy Horton, Doris Cubitt
This committee had no report.

13. Public Comments

No public comments at this time.

14. Adjournment

MOTION

Mr. O'Steen made a motion the Board adjourn. Mr. Petty seconded the motion, which carried unanimously.

The April 3, 2013, meeting of the SC Board of Funeral Service adjourned at 2:47 p.m.

The next meeting of the SC Board of Funeral Service is scheduled for June 5, 2013.