

MINUTES
South Carolina Board of Funeral Service
Board Meeting

10:00 a.m., Thursday, December 13, 2012
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Thursday, December 13, 2012

1. Meeting Called to Order

Kenneth E. Beasley, of Fountain Inn, President, called the meeting of the SC Board of Funeral Service to order at 10:13 a.m. Other Board members present for the meeting included: Thomas E. Baker, II, Vice President, of Kershaw; Wallace McKnight, Jr., Secretary, of Andrews; Michelle Cooper, of Moncks Corner; Charlie Bradford Evans, of Abbeville; William B. Horton, Jr., of Kingstree; 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; Amy Holleman, Administrative Assistant; Doris Cubitt, Administrator; Darra Coleman, Chief Advice Counsel, Office of Advice Counsel; Sara McCartha, Advice Counsel, Office of Advice Counsel; Christa Bell, Office of General Counsel; Buddy Poole, Inspector, Office of Investigations and Enforcement; Sharon Wolfe, Chief Investigator, Office of Investigations and Enforcement; and, Sharon Cook, Investigator, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Matalie Mickens, of SC Department of Consumer Affairs (SCDCA); Greg Rollings, Rollings Funeral Service; Dennis Ralph, Rollings Funeral Service; Terry McBride, Calhoun Falls Funeral Service, Brent Caughman, Caughman-Harman Funeral Home; Ernest Smith, Brown and Son Funeral Home; Conchita Bostick, Garvin and Garvin Funeral Home; Zebulon Young, Richie Funeral Home; Quentin Martin, Marcus D. Brown Funeral Home; Andy Byrd, Heritage Funeral Home; Carol Hope, Heritage Funeral Home; Robert Powers, Powers Funeral Home; Matt Bedenbaugh, Elmwood Funeral Home; Gary Toye, Caughman-Harman Funeral Home; Shon R. Johnson, Hamilton's Funeral Home; Andrew Weatherford, Graceland-Westville Funeral Home; Andrew W. Cone, Stewart Enterprises; Lou Ann Pyatt, SC Morticians Association (SCMA); Liz Simmons, SC Morticians Association (SCMA); Skip Mikell, Suburban Funeral Home; Michael Gillyard, Suburban Funeral Home; Dandria Figueroa, McCray Funeral Home; Herbert McCray, McCray Funeral Home; Richard Thompson, SC Franks & Thompson Funeral Home; and, U. A. Thompson; SC Franks & Thompson Funeral Home.

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

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

No one was absent.

4. Approval of Minutes for the October 4, 2012, Meeting

MOTION

Mr. Evans made a motion that the Board approve the minutes for the October 4, 2012, meeting. Mr. McKnight 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 that Ms. Jeanie Rose was not attending the meeting since her brother had passed so Ms. Elrod will provide the application summaries.

She also stated that hopefully Mr. Ernest Adams will be back in January 2013.

7. Reports

A. Inspection Report

Mr. Poole reported that there have been about 73 inspections completed since October 3, 2012.

B. Office of General Counsel

Ms. Bell presented the Board with the report from the Office of General Counsel (OGC). She included in the report that OGC opened 19 cases, 16 cases are pending action, two pending consent agreement or MOA (memorandum of agreement), one pending hearing, and 17 were closed.

MOTION

Mr. Horton made a motion that the Board approve the OGC report. Mr. Evans seconded the motion, which carried unanimously.

C. Investigative Review Committee (IRC) Report

Ms. Wolfe said the IRC recommended two cases be forwarded to the next IRC meeting, dismiss five cases, cease and desist one case, and, a formal complaint be issued on three cases.

Mr. Homer Elwood, IRC member, stated that he feels really good about the IRC procedures and the committee members.

Mr. Horton asked how often the IRC committee meets. Mr. Elwood stated that the IRC usually meets 2 weeks prior to the Board meeting.

Mr. Evans inquired if Mr. Elwood believes there need to be changes to the process. Mr. Elwood stated that the only area he believes needs improving is the statute and regulations need to be stronger.

MOTION

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

D. OIE Report

Ms. Wolfe stated that there were 11 active cases from January 1, 2012, to November 28, 2012. She stated seven of those are “do not open cases” and four where closed. She stated they have closed 37 cases and seven “do not open cases” from January 1, 2012, to November 28, 2012. She stated 36 cases have been closed, and two “do not open” cases from January 1, 2011, to November 28, 2011.

MOTION

Mr. Evans made a motion that the Board accept this as information. Mr. Temples seconded the motion, which carried unanimously.

8. OIE procedures (power point presentation) – Sharon Wolfe

Ms. Wolfe presented the power point presentation showing the OIE procedures.

Ms. Coleman presented the Office of Advice Counsel part of the presentation.

Ms. Coleman also explained that due to the breach at the Department of Revenue there will be changes regarding Board member packets. She stated starting in the first quarter of 2013 LLR will no longer mail board packets out to board members. She stated all boards will need to review all sensitive matter such as board packets for the secure website. She stated that LLR has in house laptops that LLR will provide on board meeting dates for the use of reviewing board packets during the board meeting.

9. Disciplinary Hearing

Case No. 2011-3 – Ernest Smith

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

The purpose of this hearing is because Mr. Smith failed to disclose a conviction on his 2010 renewal. He was convicted of filing a false tax return. Mr. Smith is represented by Bakari Sellers, Esq. Mr. Sellers stated that Ms. Tarsha Brown had renewed Mr. Smith’s license online in 2010, and she answered no to the question, “Since the date of your last renewal application have you been charged, arrested, indicted, or convicted, pled guilty of, or pled nolo contendere for violation of any federal, state, or local law (other than minor traffic violation)”. Since all charges were pending and Mr. Smith hadn’t been put in handcuffs nor was he in jail she thought everything was still pending, so she thought the answer would be

no.

Ms. Bell stated both parties have agreed to enter into a Memorandum of Agreement (MOA).

Executive Session
MOTION

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

Return to Public Session
MOTION

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

MOTION

Ms. Cooper made a motion pursuant to section 40-19-140, 40-19-200, 40-19-230, and 40-1-110 that the board revoke Mr. Smith's license until he receives a pardon. Mr. McKnight seconded the motion, which carried unanimously.

Mr. Sellers inquired on what the appeal process is. Ms. Coleman stated that they can appeal with the ALC (Administrative Law Court) within 30 days of the final order.

Case No. 2012-2 – Brown & Son Funeral Home, Manager, Warren P. Smith

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

Mr. Smith stated he wanted an attorney. Ms. Bell stated she spoke with David Williams, Esq. which stated Mr. Smith consulted with him but was not retained. Ms. Brown spoke stating that Mr. Smith did speak with an attorney but he hadn't found one to retain yet.

MOTION

Mr. Evans made a motion that the Board grant Mr. Smith until the February 5, 2013 board meeting to obtain an attorney and appear before the Board. Ms. Cooper seconded the motion, which carried unanimously.

New Business

10. Application Hearings

New Facility

1. Powers Crematory – Robert Allan Powers Sr.

Mr. Evans stated he will recuse himself if needed since he knows Mr. Powers. Mr. Powers stated that isn't necessary.

Mr. Powers stating he is opening a crematory in a different facility but on the same property as the funeral home.

MOTION

Mr. Baker made a motion that the Board approve the application pending passing final inspection and submitting the crematory operator permit. Mr. Evans seconded the motion, which carried unanimously.

New Facility/Change of Ownership

1. Fletcher Funeral & Cremation Service, Inc. – Terry L McBride

Mr. Evans stated he will recuse himself if needed since he knows Mr. Fletcher and Mr. McBride. They stated that isn't necessary.

Mr. Fletcher is purchasing this funeral home which was Calhoun Falls Funeral Service. He wishes to open a branch funeral home so he will have two locations, and Mr. McBride will manage the branch. Mr. Fletcher stated that the funeral home was just inspected at the end of October 2012. He stated that he does have an appointment with Consumer Affairs.

MOTION

Mr. O'Steen made a motion that the Board approve this application and honor the inspection that was just completed and pending a favorable letter from Consumer Affairs. Ms. Cooper seconded the motion, which carried unanimously.

2. Graceland-Westville Funerals and Cremations LLC – Andrew Martin Weatherford

Mr. Weatherford is purchasing Westville Funerals and Cremation and wishes to open a funeral home. Mr. Weatherford stated that the funeral home has already been inspected recently, and LLR should have already received the favorable letter from Consumer Affairs. Ms. Elrod confirmed that the Consumer Affairs letter has already been received.

MOTION

Mr. O'Steen made a motion that the Board approve this application managed by Mr. Weatherford. Mr. Temples seconded the motion, which carried unanimously.

3. Stoudenmire-Dowling Funeral Home – Terry J. Burnham

Mr. Petty and Mr. Horton stated they will recuse themselves if needed since they know Mr. Burnham. He stated that isn't necessary.

Mr. Rollings is purchasing this funeral home and stated that LLR should have already received the favorable letter from Consumer Affairs. Ms. Elrod confirmed that the letter was received.

MOTION

Mr. Baker made a motion that the Board approve this application pending passing final inspection and receiving a letter from their attorney once the sell takes place. Mr. Temples seconded the motion, which carried unanimously.

Additional Facility

1. Elmwood Funeral Home & Cremation Center – Matthew Brian Bedenbaugh

Mr. Bedenbaugh stated that they are hoping to open a branch funeral home located on the same property as Elmwood Memorial Gardens. He stated this will be a branch of

Caughman-Harman Funeral Home, but it will be named Elmwood Funeral Home and Cremation Center. He stated all facilities are owned by the same owner.

Mr. Horton asked if they will be selling preneed. Mr. Caughman stated they will not be selling preneed at this location. He stated the preneed will be sold from the parent funeral home.

MOTION

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

2. Heritage Funeral Home – Carol Cannon Hopkins

Mr. Beasley, Mr. Temples and Mr. Horton stated they will recuse themselves if needed since they know Mr. Bryd. He stated that isn't necessary.

Mr. Bryd stated that he is opening a branch funeral home, and Ms. Hopkins will be the manager.

Mr. Horton asked if they have received the zoning documents since he didn't see it in the application packet. Mr. Byrd stated not yet but they are working on it and will give to board staff once it is received.

Ms. Cooper stated that Ms. Hopkins indicated on the application that she has another job other than the funeral home. Ms. Hopkins stated she works full-time as an event coordinator working out of her house and they do event planning for weddings, reunions, ect. Ms. Cooper asked Ms. Hopkins if she will be working at the funeral home a minimum of 35 hours a week. Ms. Hopkins stated that she will be working around 35 hours a week. Ms. Cooper stated it must be a minimum of 35 hours a week.

Executive Session

MOTION

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

Return to Public Session

MOTION

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

MOTION

Mr. Evans made a motion that this be deferred until another meeting until they have received the zoning documents and the manager can be on the premises a minimum of 35 hours a week during normal business hours. Mr. O'Steen seconded the motion, which carried unanimously.

3. S C Franks & Thompson Funeral Home – Richard Keith Thompson

Mr. Richard Thompson stated that they are opening a branch funeral home of S C Franks Mortuary. He stated that the branch has the same owners as the parent company, Mr. Richard Thompson, Mr. U. A. Thompson, and Ms. Dawnhaines Davis.

MOTION

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

Apprenticeship Completed over 5 year requirement

1. Rev. Dr. Zebulon Dharvell Young – Funeral Director

Mr. Young completed his apprenticeship on May 20, 2007, and the regulations state the apprenticeship expires five years after the date of completion. That means his apprenticeship expired on May 20, 2012. He is requesting the Board to waive the five year requirement since he has passed the national funeral director exam but not the embalming. He wishes to take the SC law exam and get licensed as a funeral director. Then he will continue taking the embalming exam until he passes it. Mr. Baker inquired on when he wishes to take the embalming exam. Mr. Young stated within six months.

MOTION

Ms. Cooper made a motion that the board approve Mr. Young's request to accept his apprenticeship and allow him to take the SC law exam. He will also be given six months from the date of this meeting to take and pass the embalming exam or he will have to serve some or all of the embalming apprenticeship again. Mr. Petty seconded the motion, which carried unanimously.

Break for lunch

MOTION

Mr. Evans made a motion that the Board break for lunch and resume at 2:00 pm. Mr. Petty seconded the motion, which carried unanimously.

MOTION

Mr. Horton made a motion that the Board resume from the lunch break. Mr. Petty seconded the motion, which carried unanimously.

Executive Session

MOTION

Mr. Temples made a motion that the Board enter into executive session for legal advice. Mr. O'Steen seconded the motion, which carried unanimously.

Return to Public Session

MOTION

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

Request for Apprenticeship applicant has other full-time employment

1. Conchita Garvin Bostick – Apprentice Funeral Director

Ms. Bostick is requesting to serve her apprenticeship. In reviewing her application staff noticed that she has other full-time employment. She stated she has worked as a HR manager for Hampton County School since 2009. She stated she has flexible hours so she can leave when she needs to. She stated she currently works from 8:00 am-4:00 pm. She

stated she can work at the funeral home from 5:00 pm-9:00 pm Monday-Friday and 9:00 am-5:00 pm on Saturday. Ms. Cubitt stated that those hours only add up to be 28 hours.

Mr. Baker inquired what the normal working hours of the funeral home. She stated Garvin and Garvin are open 8:00 am-5:00 pm. Mr. Baker then asked if her preceptor will be at the funeral home all day and all night. She stated her preceptor is her brother so he will be at the funeral home as much as he needs to be.

Mr. Horton asked if she was a salary or hourly employee for the school district. She stated she is a salary employee. He then inquired on if her contract with the school district has a minimum of work hours. She stated her contract doesn't state her hours. She also stated she has plenty of time with the school that she can take off when necessary.

Mr. Horton stated that sales to families are usually happen during the day 8:00 am-5:00 pm. He stated she is required to have arrangements with family as part of her requirement.

Executive Session

MOTION

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

Return to Public Session

MOTION

Mr. Horton 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

Ms. Cooper made a motion that the Board deny this application since the established hours are not full-time during normal working hours. Mr. Petty seconded the motion, which carried unanimously.

2. Dandria McCray Figueroa – Apprentice Funeral Director

Ms. Figueroa submitted an application to serve her apprenticeship, but, in reviewing the application, staff noticed that she has other full-time employment. Ms. Figueroa stated she currently works full-time as an agent for State Farm Insurance. She stated once she is approved to serve her apprenticeship she will go part-time, 5:00 pm-9:00 pm.

MOTION

Mr. Evans made a motion that the Board defer her application until she can fill out an application showing she will work 35 hours a week at the funeral home and only part-time at State Farm.

3. Michael Lee Gillyard – Apprentice Funeral Director/Embalmer

Mr. Gillyard is requesting to serve his apprenticeship at Suburban Funeral Home. He stated he also has other full-time employment and attends online courses at Piedmont Tech.

Mr. Evans inquired on what are the normal working hours of the funeral home. Mr. Mikell stated the normal working hours are 9:00 am-6:00 pm.

MOTION

Mr. Horton made a motion that the Board grant Mr. Gillyard's request to serve his apprenticeship. Mr. Temples seconded the motion, which carried unanimously.

4. Kenneth Mitchell Johnson – Apprentice Funeral Director

Mr. Horton recused himself from vote on this matter.

Mr. Johnson is requesting to serve his apprenticeship, however, in review his application, staff noticed that he has another full-time job. He currently works as the coroner for the County of Georgetown.

MOTION

Mr. Evans made a motion that the Board grant Mr. Johnson's request to serve his apprenticeship. Mr. McKnight seconded the motion, which carried unanimously.

5. Shon Romel Johnson – Apprentice Funeral Director

Mr. Johnson stated he is thirty-four years old and has worked at the funeral home since he was sixteen. He stated his heart is telling him to be a funeral director/embalmer.

Mr. Temples asked if Mr. Johnson understand he must work a minimum of 35 hours a week. Mr. Johnson stated he does understand that. He stated he works at the district office for Colleton County school district from 7:00 am-3:00 pm. He stated he works at MUSC part-time from 11:00 pm-11:00 am only two to three days a week. He stated he can be at the funeral home by 3:30pm daily.

MOTION

Mr. Temples made a motion that the Board defer this until Mr. Johnson can show proof of working 35 hours a week by providing a hourly time card showing his hours signed by Mr. Johnson and his preceptor, Mr. Hamilton, and appear before the board on February 5, 2013. Mr. Evans seconded the motion, which carried unanimously.

6. Quentin Leon Martin – Apprentice Funeral Director/Embalmer

Mr. Martin came before the board because he wishes to serve his apprenticeship but he also has other full-time employment as a counselor at New Foundations in Anderson, SC.

Mr. Evans inquired if Mr. Martin knows the apprenticeship is a 35 hours a week job. Mr. Martin stated he does understand that. He stated that he works third shift from 11:00 pm-9:00 am at New Foundation and works at the funeral home 10:00 am-6:00 pm.

MOTION

Mr. Evans made a motion that the defer this to the February 5, 2013, board meeting so Mr. Martin's preceptor can attend with him and so he can provide copies of old quarterly reports showing that he did complete many of the required tasks. Mr. Petty seconded the motion, which carried unanimously.

7. William Timothy Plummer – Apprentice Funeral Director

Mr. Plummer wasn't present because he has a doctor's appointment and was unable to make the meeting.

8. Joan Laverne White – Apprentice Funeral Director

Ms. White's husband and preceptor called stating that they would be unable to attend the meeting since her mother is gravely ill with stage four cancer. He stated they request that the board defer this until the February 5, 2013, meeting when they can attend.

11. Retail Sales Outlets (Port Elsewhere II)

Ms. McCartha asked the Board members to review the SC Administrative Law Court decisions regarding Retail Sales Outlets for Port Elsewhere II. And if they have any questions please let her know.

12. Approval of attendees for 109th Annual Convention for The Conference (Nevada)

Ms. Cubitt stated that the 109th Annual Convention for the Conference will be in Nevada on February 27-28, 2013. She stated that the board needs to vote on who they want to attend the convention.

MOTION

Mr. Evans made a motion the Board approve Ms. Cubitt to attend this meeting and if a member of the board is interested in attending they need to contact Ms. Cubitt. Ms. Cooper seconded the motion, which carried unanimously.

13. Approval of 2013 Board meeting dates

The scheduled 2013 board meeting dates are February 5, 2013 or February 14, 2013, April 3, 2013, June 5, 2013, August 1, 2013, October 24, 2013, and December 12, 2013.

They need to pick which date in February they prefer since February 5, 2013, will be during that Mid Winter Conference downtown and the February 14, 2013, will be at LLR.

MOTION

Mr. Horton made a motion the Board approve the 2013 board meeting dates as February 5, 2013, April 3, 2013, June 5, 2013, August 1, 2013, October 24, 2013, and December 12, 2013. Mr. Petty seconded the motion, which carried unanimously.

14. 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.

15. Public Comments

No public comments at this time.

16. Adjournment

MOTION

Mr. Evans made a motion the Board adjourn. Mr. McKnight seconded the motion, which carried unanimously.

The December 13, 2012, meeting of the SC Board of Funeral Service adjourned at 5:45 p.m.

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