

MINUTES
South Carolina Board of Funeral Service
Board Meeting

10:00 a.m., Thursday, October 4, 2012
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Thursday, October 4, 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 10:10 a.m. Other Board members present for the meeting included: Wallace McKnight, Jr., Secretary, of Andrews; Michelle Cooper, of Moncks Corner; Charlie Bradford Evans, of Abbeville; Mark R. O'Steen, Spartanburg; and, John L. Petty, III, of Landrum.

Staff members participating in the meeting included: Wendi Elrod, Program Assistant; Jeanie Rose, Administrative Assistant; Amy Holleman, Administrative Assistant; Dean Grigg, LLR Deputy Director; Sara McCartha, Advice Counsel, Division of Legal Services; 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: Rebecca Bonfim, of SC Department of Consumer Affairs (SCDCA); Matalie Mickens, of SC Department of Consumer Affairs (SCDCA); Isaiah Holcomb; Jim Dobbins, Simplicity Lowcountry Cremation & Burial Service; Ariail Kirk, McNair Law Firm, for Simplicity: Lowcountry Cremation and Burial Services; Rondia Bailey; Tearsa White; Michael White; Scott Fowler; Thaddeus Backus, Backus Funeral Home; Shannon DeLoach, The Serenity Mortuary; Charlie Murray, The Serenity Mortuary; Alaine Glover, Glover Funeral Home; Luther Johnson, Jr, of SC Franks of Liberty; Luther Johnson, III, of SC Franks of Liberty; Fletcher Smith, Fletcher N. Smith Attorney at Law, for Luther Johnson Funeral Home; Mike Squires, of the SC Funeral Directors Association (SCFDA); Mark Smith, of McAlister Smith Funeral Home; Archie Willis, of McAlister Smith Funeral Home; and, Lawrence Meadows; First Family 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

Thomas E. Baker, II, Vice President, of Kershaw; William B. Horton, Jr., of Kingstree; and, Jeffrey K. Temples, of Columbia, were absent.

MOTION

Ms. Cooper made a motion that the Board approve Mr. Baker's, Mr. Horton's and Mr. Temples' absences. Mr. O'Steen seconded the motion, which carried unanimously.

4. Approval of Minutes for the August 2, 2012, and September 13, 2012, Meetings

MOTION

Mr. Petty made a motion that the Board approve the minutes for both meetings. Mr. McKnight seconded the motion, which carried unanimously.

5. Reports

A. Investigative Review Committee (IRC) Report

Ms. Wolfe said the IRC recommended two cases be forwarded to the next IRC meeting, dismiss one case and, a formal complaint be issued on six cases. One case be issued a cease and desist order, and nine will be issued a letter of caution.

MOTION

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

B. OIE Report

Ms. Wolfe stated that there were 46 cases opened this year, 38 of those are active cases, and five are "do not open cases". She stated they have closed 33 cases and five "do not open cases" from January 1, 2012, to September 7, 2012. She stated 27 cases have been closed, and one active case from January 1, 2011, to September 7, 2011.

C. Inspection Report

Mr. Poole reported that there have been about 50 inspections completed since September 12, 2012.

D. Office of General Counsel

There is no OGC report at this time.

6. President's Remarks – Kenneth Beasley

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

7. Administrator's Remarks – Amy Holleman

Ms. Holleman stated she will be presiding over the meeting since Ms. Cubitt was unable to attend.

8. Disciplinary Hearing

Case No. 2011-3

This hearing has been postponed until the next board meeting since now both parties will be entering into a Memorandum of Agreement (MOA).

9. IRC procedures

Mr. Homer Elwood, IRC member, to discuss IRC procedures.

MOTION

Mr. Petty made a motion that the Board move Mr. Elwood to later in the meeting when he can be present. Mr. Evans seconded the motion, which carried unanimously.

New Business

10. Application Hearings

New Facility

1. Johnson's Funeral Home of Liberty – Luther Johnson, Jr.

Mr. Smith, Esq. spoke for Mr. Johnson. He stated that Mr. Johnson wants to change the name of the funeral home from Johnson's Funeral Home to Luther Johnson's Funeral Home since there are other Johnson Funeral Homes in the state which has no affiliation.

Mr. Evans asked if Mr. Johnson has the facility been zoned for a funeral home. Mr. Johnson, III then spoke for his father stated that this was a funeral home before under the name SC Franks, of Liberty. Mr. Evans asked if the partnership with Mr. Johnson and the owners for SC Franks, of Liberty was dissolved. Mr. Johnson, III stated it was but it was only a verbal agreement. Mr. O'Steen inquired on if the funeral home will sale preneed. Mr. Johnson stated at this time they will not be selling preneed but hope to sale in the future.

Executive Session

MOTION

Mr. Evans 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

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

MOTION

Mr. Petty made a motion that the Board approve the application pending passing final inspection as long as they are ready to open in one year; and they will not sell preneed until properly licensed by Consumer Affairs. Mr. McKnight seconded the motion, which carried unanimously.

2. The Serenity Mortuary – Shannon Nehemiah DeLoach

Mr. DeLoach wishes to open a new funeral home with him as manager.

Mr. DeLoach is a full-time law enforcement officer and has not worked at a funeral home since 2008, when he served his apprenticeship. He stated if the board approves his request then he will resign from his law enforcement job. Mr. Murray stated that he works full-time at Murray's Mortuary and once Serenity is open he will be working for both funeral homes. Mr. DeLoach has worked for several funeral homes as an independent funeral director and embalmer.

MOTION

Mr. Evans made a motion that the Board approve this application managed by Mr. DeLoach, pending passing final inspection. Ms. Cooper seconded the motion, which carried unanimously.

Additional Facility

1. B. F. Cave Funeral Home – Benjamin F. Cave

Mr. Cave wishes to open a branch funeral home in Allendale. He stated that he will comply with the previous order from 2010 stating that B. F. Cave Funeral Home can operate a funeral home and neither Mr. Michael Cave nor Mr. Charlie Cave will have any dealings with the day to day operation of the funeral home.

MOTION

Mr. O'Steen made a motion that the Board approve this application managed by Mr. Benjamin Cave, pending passing final inspection. Ms. Cooper seconded the motion, which carried unanimously.

2. Cremation Services of South Carolina LLC – James Lanton Dobbins

Mr. Dobbins wishes to open a crematory at the current location of his funeral home.

MOTION

Mr. Evans made a motion that the Board approve this application managed by Mr. Dobbins, pending passing final inspection and crematory operator certificate. Mr. Petty seconded the motion, which carried unanimously.

3. McAlister-Smith Funeral Home – James Island – Archie D. Willis, III

Ms. Cooper recused herself from voting in this matter.

Mr. Petty and Mr. Evans stated that they know Mr. Willis and will recuse themselves if Mr. Willis wishes. Mr. Willis stated that will not be necessary.

Mr. Willis stated that McAlister Smith Funeral Home wishes to open an additional branch.

MOTION

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

Location Change

1. First Family Funeral Home – Lawrence R. Meadows

Mr. Meadows is requesting a change of location for his funeral home. Ms. Cooper inquired why he is moving, and he stated that the funeral home has overgrown the current location.

Mr. Petty asked how far the funeral home is moving. Mr. Meadows stated only four miles down the road.

MOTION

Mr. Evans made a motion that the Board grant Mr. Meadows' request. Mr. McKnight seconded the motion, which carried unanimously.

Request to take exams or re-do apprenticeship

1. David Hartley - Apprentice Funeral Director/Embalmer

Ms. Rose stated that Mr. Hartley called stating that he was unable to attend and wished to be placed on the February 2013 agenda.

Request for Apprenticeship applicant has other full-time employment

1. Rondia Vanee' Bailey – Apprentice Funeral Director

Ms. Bailey has other full-time employment as a property manager of an apartment complex. The Board asked if Ms. Bailey will be able to provide her resignation documentation and she stated yes.

MOTION

Ms. Cooper made a motion that the Board approve pending proof that she has resigned from the property manager job. Mr. Petty seconded the motion, which carried unanimously.

2. Isaiah Syboid Holcomb – Apprentice Funeral Director/Embalmer

Mr. Holcombe serves full-time with the US Navy. Ms. Cooper asked how he will work the required 35 hours a week and what the funeral homes operation hours are. He stated he will leave the military at 2pm and arrive at the funeral home at 3pm Mon-Fri & will work Sat and Sun by appointment. He stated that the funeral home operation hours are 11am-7pm Mon-Fri.

MOTION

Mr. Evans made a motion that the Board deny Mr. Holcombe's request to serve a full-time apprenticeship while serving full-time in the military. Ms. Cooper seconded the motion, which carried unanimously.

Mr. Holcombe asked where it is written in the law that he can't have other full-time employment. The Board stated based on the information provided by him, the Board doesn't see how he can serve the military full-time and serve an apprenticeship full-time. He

asked when he can reapply. Ms. McCartha stated that the law doesn't state a time so whenever he wishes.

3. 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.

4. Tearsa Dawn White – Apprentice Funeral Director/Embalmer

Ms. White stated she isn't applying for an apprenticeship at this time. She stated Mr. Dobbin's stated he could use her on the weekends but not during the week. So maybe she can work at another funeral home part-time and work at Mr. Dobbins' funeral home part-time while also working a full-time job. She stated she has worked a full-time job, went to school full-time and graduated with honors. Ms. Cooper stated that the law states that the apprentice is tied to one preceptor not the funeral home. Ms. White then stated that she doesn't believe that the Board can tell her that she can't work two full-time jobs when she knows she can. Ms. Cooper stated the Board isn't telling her that she isn't capable of work two full-time jobs. But the law states she can only serve her apprenticeship under one preceptor. Ms. White asked if there is any other way she can serve her apprenticeship. Ms. Cooper stated that the law states that an apprentice must work full-time, under one preceptor, while under direct supervision. Ms. White then stated so if she can find one preceptor then she can apply for the apprenticeship even if she is working on call hours. Mr. Evans stated she must be a full-time employee. So she then stated that if she works from home and is on call for the funeral home. Mr. Osteen stated that the apprenticeship is a full-time job which is 35 hours a week, under direct supervision. Ms. White stated so if she moves her desk to right next to her preceptor that is okay since she will then be under direct supervision. Mr. Osteen stated whatever she wants to do as long as she meets the requirements. Ms. Cooper stated the law isn't designed to hinder or hurt the apprentice. It is designed to make sure that the apprentice is being trained properly before being licensed to serve the public.

Request to serve Apprenticeship 4th time

1. Thaddeus Eugene Backus – Apprentice Funeral Director/Embalmer

Mr. Backus has served his apprenticeship three times and is requesting an extension to complete the 24 month requirement.

The dates for the first apprenticeship was August 3, 2007, thru August 3, 2009, the second apprenticeship was May 4, 2010 thru May 4, 2011, and the third apprenticeship was May 9, 2011, thru May 9, 2012. Ms. Rose stated Mr. Backus needs 2 one half months to complete his apprenticeship.

Mr. Backus stated after he completes the 24 month apprenticeship he plans to finish Mortuary College which should be May of 2013, so he can get licensed.

MOTION

Mr. Evans made a motion that the Board grant one more year to complete his apprenticeship and pass the exams. Ms. Cooper seconded the motion, which carried unanimously.

2. Alaine Glover – Apprentice Funeral Director/Embalmer

Ms. Glover is requesting permission to serve her apprenticeship for the forth time so she may complete it.

MOTION

Mr. Evans made a motion the Board approve Ms. Glover to server her apprenticeship for one more year so she can complete her two and one half months. Mr. McKnight seconded the motion, which carried unanimously.

11. Approval of Statute and Regulation changes

Ms. Cooper requested that Board Staff (Ms. Holleman) to research southern states to see how other states define a Hearse.

Statue changes

MOTION

Mr. Evans made a motion the Board approve the Bill with the changes that were made at the September 13, 2012, Board meeting. Ms. Cooper seconded the motion, which carried unanimously.

Regulation changes

Ms. Holleman asked for clarification on if an apprentice can serve their apprenticeship under two different preceptors at the same time. Ms. Cooper stated yes as long as it is per license type. For example an apprentice can have one preceptor for funeral directing and a different preceptor for the embalming.

Mr. Evans stated that he believes that is a great question. He asked if the board needs to define apprentice even further, compared to what the statute reads? Ms. McCartha stated they can be more specific, but they can't go outside the scope. She stated she believes based on the board's interpretation of the statute, they have already said that an apprentice can only work with one preceptor. She stated the way the statute reads is an apprentice can only work with one funeral director or one embalmer. It doesn't say that the person has to be the same person, but they can't work with two different funeral directors.

MOTION

Mr. Evans made a motion the Board approve the Bill with the changes that were made at the September 13, 2012 Board meeting. Add number 10 under regulation 57-06 to read as "An apprentice may serve under only one preceptor per license type." Ms. Cooper seconded the motion, which carried unanimously.

Regulation Fee changes

MOTION

Mr. O'Steen made a motion the Board approve the Bill with the changes that were made at the September 13, 2012, Board meeting. Mr. Evans seconded the motion, which carried unanimously.

12. Committee Reports

A. Legislative Committee – Brad Evans, Eddie Nelson
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

Mike Squires from the South Carolina Funeral Directors Association (SCFDA) asked if the board members would like to have the February 2013 board meeting at the convention center. For the past five years the funeral service board has held the February board meeting at the convention center during the Mid Winter conference. The board members expressed that they would like to have the funeral board meeting at the convention center. He asked if the board is okay with holding the board meeting on February 5, 2013 and all members were fine with that.

14. Adjournment

MOTION

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

The October 4, 2012, meeting of the SC Board of Funeral Service adjourned at 12:55 p.m.

The next meeting of the SC Board of Funeral Service is scheduled for December 13, 2012.