

*Arkansas State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services
Board Meeting Minutes*

Tuesday, September 25, 2018
1200 West Third Street
1st Floor Hearing Room
Little Rock, AR
9 a.m. – 12:10 p.m.

Chairman Bill Booker called the meeting to order. Members present: Billy Curl, Professional Member, Rausch Hodges, Professional Member, Commissioner, Allen Kerr, Stephanie Neipling, Consumer Member, Josephine Perry, Senior Citizens Member, Bruce Smithson, Professional Member, and Steve Whitwell, Professional Member and Vice-Chair. Member(s) absent: Chuck Dearman, Professional Member. Staff Present: Robert Akers, Director, Funeral Services Division, Amy Goode, Executive Secretary, Lorin Hillery, Auditor, Leslie Stokes, Inspector, Amelia Vestal, Senior Securities Examiner, and Amanda Gibson, Arkansas Insurance Department, Associate Counsel.

1. **Call to Order** – Introduction of Board members and staff.
2. **Approval of the Agenda**

Chairman Booker inquired if there were any desire to change or deviate from the proposed agenda. Hearing none, the Board preceded with the agenda as prepared by staff.

3. **Administrative**

- a. Approval of the March 28, 2018, meeting minutes of the Burial Association Board;
- b. Approval of the June 7, 2018, meeting minutes of the State Board of Embalmers and Funeral Directors;

Motion made by Curl to accept the Burial Association Board minutes of March 28, 2018 and the State Board of Embalmers and Funeral Directors minutes of June 7, 2018 as submitted by staff, seconded by Smithson, all in favor. Motion carried.

- c. Approval of the August 21, 2018, initial meeting minutes Arkansas State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services; and
- d. Approval of the August 21, 2018, special meeting minutes.

Motion made by Smithson to approve the minutes of the August 21, 2018 meetings, as submitted by staff, seconded by Curl, all in favor. Motion carried.

4. **New Business**

a. Perpetual Care Cemeteries Application for Permit Amendment (*§20-17-1011 Permit-Amendment*)

- i.** To consider the request to amend the current license held by Selected Financial Properties, LLC to operate **CedarVale Cemetery**, Hot Springs Village (License No.11814).
- ii.** To consider the request to amend the current license held by Selected Financial Properties, LLC to operate **Hollywood Cemetery**, Hot Springs (License No. 11811).
- iii.** To consider the request to amend the current license held by Selected Financial Properties, LLC to operate **Memorial Gardens of Hot Springs**, Hot Springs (License No. 11812).

Mr. Bruce “Guy” Dillahunty, President. Selected Financial Corporation was present on behalf of Selected Financial Properties, LLC. Mr. Dillahunty explained in some detail their reason for their requests to amend their licenses by reducing boundaries of these cemeteries. Mr. Dillahunty stated he understood that before the board would give a final approval, the board would need some additional information and asked for a conditional approval.

Mr. Whitwell inquired of Ms. Gibson if under the current law, if there were certain documents that have to be filed in order to make the request. Ms. Gibson stated that, they did not want to undergo the expense of survey’s and title searches, if the board is not going to approve the boundary change. Ms. Gibson further stated that would be an appropriate action for the board to take, to approve the boundary change, pending submission of those documents.

Mr. Whitwell further inquired if the formal application submitted contained everything with the exception of the surveys. Ms. Vestal stated that was correct, that the act to amend boundaries currently requires having an application, a title search to ensure that the boundaries excluded are clear and that there is no jeopardy to the cemetery or future of the perpetual care cemetery.

After further discussion, Mr. Dillahunty asked the board to defer action to amend permits for CedarVale, Hollywood, and Memorial Gardens Cemeteries in the Hot Springs area. Mr. Curl noted that he would recuse due to a possible conflict. CedarVale Cemetery is located on the same grounds as CedarVale Funeral Home, which is owned by Mr. Curl.

Motion made by Commissioner Kerr, to accept the applicants request for deferral, seconded by Whitwell, all in favor. Motion carried.

- iv.** To consider the transfer of ownership of **Garden of Memories**, Charleston (License No. 11780) from Mr. Edward “Eddie” Hahn Estate to Cythia Mae Hahn,

Executrix of the Edward Hahn Estate and Trustee of the Edward McGee Hahn to Cythia Mae Hahn Family Living Trust.

Mr. Joseph “Jody” Crimm manager of the cemetery was present in representation of Mrs. Cythia Mea Hahn.

Motion made by Commissioner Kerr, to accept the transfer as applied and to waive the impending fee, seconded by Hodges, all in favor. Motion carried.

- v. To consider the transfer of ownership of **Kirby’s Tucker Memorial Cemetery**, Mountain Home (License No. 11801) from Elton Kirby to Jason Kirby.

Mr. Jason Kirby, owner of Kirby’s Tucker Memoria Cemetery, was present representing the cemetery.

Motion made by Commissioner Kerr, to accept the transfer as applied and to waive the impending fee, seconded by Smithson, all in favor. Motion carried.

b. To consider the complaints on-file with the State Board (*§23-61-1109 Powers and Duties*)

- i.* To consider the resolution of Ms. Maxine Jackson’s complaint against **Lincoln Memorial Gardens**, Varner (License No. 11819).
- ii.* To consider the resolution of Ms. Teresa Story’s complaint against **Edgewood Cemetery**, North Little Rock (License No. 11849).

Ms. Vestal informed the board that these complaints have currently been resolved and there was no need for any formal action at this time. Ms. Vestal also informed the board that the complaint process has not changed.

Mr. Henry Droughter present at the meeting received permission to speak before the board. He stated he had a complaint against Haven of Rest and he had made it clear he was dissatisfied with the conclusion of it and asked that his complaint still be kept active.

Ms. Vestal stated that his complaint was still open. Ms. Gibson stated that staff would review the file thoroughly, would send a determination letter to Mr. Droughter, and present a determination at the next meeting.

5. New Business

a. Embalmers & Funeral Directors – Establishments Seeking Approval (*§17-29-305 Examinations – Licenses*)

- i. Cross County Cremations and Funeral Service – Board ID No. 25024.** Requests a Type A establishment license and is located at 2106 Hwy 64 Spur, Wynne, Arkansas. Inspector Stokes inspected the Type A Full

Service establishment, owned by Mitzi Boeckmann and Donna Presley, on **Wednesday, July 11, 2018**. The manager of record will be Mitzi Boeckmann and embalming is to be under the direction of John Driver. Cross County Cremations, LLC in Wynne will perform cremations. All required documentation submitted is pending Board approval.

Mrs. Mitzi Boeckmann, manager and co-owner of Cross County Cremations and Funeral Service and Ms. Pam Childers, partner, funeral director, and embalmer, were present representing the funeral home.

Mr. Booker inquired if they had seen the email from Joseph Sledge, they indicated they had and they were prepared to speak to the board concerning that email.

Motion made by Whitwell to approve the Type A establishment license for Cross County Cremations and Funeral Service, Board ID No. 25024, seconded by Perry, all in favor. Motion carried.

- ii. **Heirloom Funeral Service, LLC – Board ID No. 25042.** Requests a Type A establishment license and is located at 99 West Main Street, Marianna, Arkansas. Inspector Stokes inspected the Type A Full Service establishment, owned by Paul and Jana Harris and David and Lindsey Palmer, on **Wednesday, September 5, 2018**. The manager of record will be Jana Harris and Morgan Funeral Home, Forrest City, is to be performing the embalming, under the direction of C.J. Williams. Cross County Cremations, LLC in Wynne will perform cremations. All required documentation submitted is pending Board approval.

Mrs. Jana Harris and Mrs. Lindsey Palmer, owners of Heirloom Funeral Services, LLC, were present representing the funeral home.

Motion made by Commissioner Kerr to approve the Type A establishment license for Heirloom Funeral Service, LLC., Board ID No. 25042, seconded by Smithson, all in favor. Motion carried.

b. Crematory Permit Application Approval (*§17-29-313 Crematorium Construction*)

- i. **Sullivan Funeral Care, LLC d/b/a Ascension Crematory - Crematory Permit Application** – Requests a Crematory Construction Permit located at 111 W. Wilbur Mills Ave., Kensett, Arkansas. All required documentation submitted is pending Board approval.

Mr. Mark Sullivan indicated that due to his funeral schedule he would not be in attendance.

Motion made by Commissioner Kerr to approve the crematory permit construction application, seconded by Curl.

Ms. Goode explained that an applicant must first apply for a permit to construct and then an application is made to operate/license the crematory. Further you cannot cremate a body without a license being issued by the board, but in order to be properly trained to operate the retort they need a body present. In the past, the board inspector has gone out to inspect the crematory and applicants appeared before the board for approval of the license. Then the inspector would attend the training and the first cremation.

Mr. Akers stated you need the license to operate, but you are giving a license in advance of the actual finalized installation and/or the manufacturer training of the personnel to operate and the inspector being there to witness the first cremation.

Commissioner Kerr mentioned a contingent license and Mr. Akers agreed that is what staff had discussed. Mr. Akers further explained it would be a contingency approval, pending installation, training, and successful first cremation and then coming back for final approval.

Motion amended by Commissioner Kerr to approve the application to construct and license application for Ascension Crematory, pending conditional install and inspection prior to the issuance of the Type C license, seconded by Curl, all in favor. Motion carried.

6. **Complaints – Embalmers & Funeral Directors** (*§17-29-312 Suspension or Revocation[Effective July 1, 2018]*)

Ms. Gibson explained she was going to summarize these in a de-identified manor to not divulge the names of the respondents should they go to hearing with the exception of the first complaint, only because it had been made public to the previous board.

a. Case No. 15-2 – In the matter of: Edward Snow, a Licensed Funeral Director and Embalmer

Motion made by Smithson to accept the recommendation to close Case No. 15-2 against Edward Snow, seconded by Neipling, all in favor. Motion carried.

b. Case No. 17-40 – Apprentice Funeral Director falsified case reports.

c. Case No. 17-48 – Respondent violated Insurance laws and failed to respond to complaint.

d. Case No. 17-56 – Apprentice funeral director failed to disclose felony conviction on application.

- e. Funeral Director Application for Reinstatement with felony conviction**
- f. Apprentice Funeral Director Application with felony conviction**

Mr. Curl inquired if apprenticeship applicants currently perform a background check prior to starting the apprenticeship. Ms. Goode explained that no, background checks were not performed until an applicant applies for licensure. Mr. Akers explained that there is nothing currently in the code that stipulates a background check be completed for the apprentice-level certification. It is in the code that prior to approving an application for a funeral director or embalmer's license a criminal background check is required through the Arkansas State Police. Commissioner Kerr inquired if we could make a procedural change to run these background checks on the front end of the application for apprenticeship. Ms. Gibson stated she would review the statutes and give an update at the meeting October 30, 2018.

Motion made by Curl to bring these matters to a hearing at the appropriate time, seconded by Smithson, all in favor. Motion carried.

g. Case No. 18-08 and 18-09

Motion made by Commissioner Kerr to accept the recommendation to close Case No. 18-08 and 18-09 for lack of violations, seconded by Smithson, all in favor. Motion carried.

h. Case No. 18-10

Motion made by Commissioner Kerr to accept recommendation to close Case No. 18-10 for lack of violations, seconded by Smithson, all in favor. Motion carried.

7. Old Business – Embalmers & Funeral Directors

- a. A. C. A. §17-29-302 (c) (1) The board shall require applicants for licensure as funeral directors to successfully complete up to twenty (20) hours of classroom instruction in funeral service practices and ethics, laws, and rules affecting funeral service.**
 - i. University of Arkansas Community College – Hope.**
 - ii. Arkansas State University – Mountain Home.**
 - iii. Approved Continuing Education Courses.**

The board discussed this matter in some great detail. Mr. Akers had prepared a memorandum for the meeting that summarized the courses offered by the mortuary schools in Arkansas.

Mr. Brad Sheppard, instructor at University of Arkansas Community College – Hope, was present representing the university. They do offer all the courses online and each requires an exam. They offer a Certificate of Equivalency which is fifteen (15) hours. He

explained that classes were available online and it was \$90 per online credit hour. The board had great concerns requiring applicants for funeral director apprenticeship to invest that amount of time and substantial cost involved.

Motion made by Curl to table this until the next meeting to gather information from the professionals in our areas, seconded by Smithson, all in favor. Motion carried.

8. **New Business – Burial Associations** (*§23-61-1110 Burial Associations [Effective July 1, 2018]*)

a. **Richardson Burial Association (Texarkana) – Request Relief of their December 2017 Semi-Annual Report Late Fee.**

b. **Safeway Burial Association (Newport) – Request Relief of their December 2017 Semi-Annual Report Late Fee.**

Motion made by Commissioner Kerr to reduce the late penalty fees to \$100 each for Richardson and Safeway Burial Association, seconded by Smithson, all in favor. Motion carried.

9. **Meeting and/or Hearing Dates**

- a. Tuesday, October 30, 2018 (9:00 a.m.)
- b. Tuesday, December 4, 2018 (9:00 a.m.)

The board scheduled the above referenced dates as meeting and/or hearing dates.

10. **Committees**

Motion made by Curl to form a rule and complaint committee, seconded by Whitwell.

Ms. Gibson explained that a rules committee would be a good idea, because the rules are going to take a substantial amount of work. The complaint committee is a general suggestion that is in the Board Member Handbook, that the Attorney General's office publishes. Ms. Gibson spoke from experience that while working at the Attorney General's office, the smaller licensing boards would form a complaint committee that generally consisted of one board member, the executive director, and the assistant attorney general. They would review complaints and then make a recommendation. Any board members that are involved have to recuse from voting at the hearing due to their prior knowledge of the events. Ms. Gibson further explained that went the board came under the department; we envisioned the staff being able to handle the investigation of the complaints and making recommendations to the board.

Motion amended by Curl to establish a rules committee, a sub-committee of this board, seconded by Whitwell, all in favor. Motion carried.

Motion made by Commissioner Kerr to appoint Mr. Curl and Mr. Whitwell to the rules committee, seconded by Smithson, all in favor. Motion carried.

11. **Adjournment**

Motion made by Curl to adjourn at 12:10 p. m., seconded by Neipling, all in favor.
Motion carried.