

NEVADA FUNERAL AND CEMETERY SERVICES BOARD

MINUTES OF MEETING

Tuesday, June 14, 2016, at 9:00a.m.

Legislative Building
401 South Carson Street, Room 3138
Carson City, Nevada

Please Note: The Board may 1) address agenda items out of sequence to accommodate persons appearing before the Board or to aid the efficiency or effectiveness of the meeting; 2) combine items for consideration by the public body; and 3) pull or remove items from the agenda at any time. The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person. (NRS 241.030)

Public comment is welcomed by the Board, but at the discretion of the chair, may be limited to three minutes per person. A public comment time will be available before any action items are heard by the public body and then once again prior to adjournment of the meeting. The Chair may allow additional time to be given a speaker as time allows and in his/her sole discretion. Once all items on the agenda are completed the meeting will adjourn. Prior to the commencement and conclusions of a contested case or a quasi judicial proceeding that may affect the due process rights of an individual the board may refuse to consider public comment.

Action by the Board on an item may be to approve, deny, amend, or table.

1. Call to order, roll call, introduce new member, establish quorum 9:06 am

Board Members Present

Dr. Wayne Fazzino, Chairman
Tammy Dermody, Secretary
Lorretta Guazzini, Treasurer
Bart Burton, Member
Dr. Randy Sharp, Member
Brian Rebman, Member
Kathleen Dussault, Member

Board Staff Present

Jennifer Kandt, Executive Director
Marie Paakkari, Admin/Executive Assistant
James Loveless, Inspector/Investigator

Board Counsel Present

Henna Rasul, Deputy Attorney General

Jennifer Kandt introduced new Board Member Kathleen Dussault.

Kathleen Dussault stated that she works for the State of Nevada Department of Veterans Services, and is retired from the Navy. Kathleen Dussault stated that her responsibilities with the Department of Veterans Services include overseeing the Veterans cemeteries both in Northern and Southern Nevada.

All members were present and a quorum was established.

2. Public comment

Note: No vote may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. (NRS 241.020)

John Lawrence of Autumn Funerals asked if the public would be able to comment during the discussion of the proposed regulation changes.

Dr. Wayne Fazzino stated that public comment will be allowed during the beginning of the meeting and at the end, but would not be taken at any other time during the meeting so encouraged people to give public comment at this time.

3. Discussion, recommendation, and possible action regarding proposed changes to Chapters 451 and 642 of Nevada Administrative Code (For possible action)

Jennifer Kandt said that the Board has gone through these changes line-by-line several times and she thinks the Board should only discuss the several issues where there are still some questions or issues. She said that she believed that one of the issues remaining was the section regarding allowing a funeral director to only manage three locations. Additionally, she stated that there may be some concerns about the direct cremation facility section and allowing those locations to provide final rights.

The Board discussed section 19 regarding not being able to manage a location if the funeral director resides more than 120 miles from the premises of the location and to not manage more than one facility unless the premises of each facility are less than 120 miles apart and then not managing more than a total of three locations. It was pointed out that number 4 does give the Board authority to grant an exception to 1 or 2 regarding the distance of the location which she believes was to take into account the rural areas in the State. There was general consensus that the Board members wanted this section to remain as written.

There was discussion on section 37 regarding direct cremation facilities being able to provide rights or ceremonies in connection with the final disposition of the human remains.

Tammy Dermody stated the Legislative Committee suggested these changes to clearly differentiate between a full service funeral home and a direct cremator. She stated that direct disposers are supposed to be exactly that, direct disposers. She said that does not mean that they cannot send that family elsewhere, but they cannot be conducting services or then it is no longer simply a direct cremation.

Bart Burton stated if a family came in to a direct cremation facility and they want to have a memorial in a church than the direct cremation facility could contact the church and the family to help set that up. He stated that now they have to send them to another location to do that.

MOTION: Kathleen Dussault moved to approve the regulatory changes as written. Tammy Dermody seconded the motion and the motion was carried unanimously.

4. Discussion, recommendation, and possible action regarding possible legislative changes to NRS 642 and NRS 451 to allow time period for crematory certification training and arranger testing (For possible action)

Jennifer Kandt stated that initially the Board was putting into the regulations that there would be a time frame for the arrangers to become licensed and also a time frame for the crematory operators to attend a certification training. She stated that LCB did not draft those changes because they said that the Board was basically allowing for unlicensed activity. When a license or training is required

for certain duties, then a person needs to have that license or training before they perform those duties. Jennifer Kandt stated that Senator Hardy had asked if the Board would be supportive of a statutory change and this agenda item is to clarify whether the Board would want to pursue legislative change or if someone else pursued the change, would the Board be supportive of that change. Jennifer Kandt stated that the Board is able to license funeral arrangers in two weeks from requesting testing to licensure. Also, she stated that two manufacturer trainings have been approved for the crematory operator certification training and there is even one offered as a webinar.

Dr. Randy Sharp stated that he agreed with LCB. He said it is the same in the veterinary community that people need to have a license to conduct certain activities. He said that if the Board were to adopt these changes then the Board would be allowing unlicensed activities. He said he thinks that the two week timeframe for licensure and the availability for training is very reasonable.

Brian Rebman stated that there is still work that an employee could do in the funeral home while they are awaiting licensure. He said that there is still work to be done around the mortuary without having to operate a crematory or meet with families. He thinks there is still an opportunity to employ someone and allow proper time to train them.

MOTION: Tammy Dermody moved to not move forward with any legislative changes. Lorretta Guazzini seconded the motion and the motion was carried unanimously.

Jennifer Kandt requested for clarification on whether the Board is supportive of legislative changes if someone else pursues those changes.

Tammy Dermody stated that she did not think the Board should support those changes, and there was general consensus that the Board would not support changes.

5. Discussion, recommendation, and possible action regarding Board position on changes to NAC 440, file number R066-16 (For possible action)

Jennifer Kandt stated that these changes were not prepared by the Board, but these changes were prepared by the office of Vital Statistics. She said that these changes do have an effect on licensees as licensed funeral directors are responsible for death certificates. Jennifer Kandt stated that currently the regulations did not allow for funeral directors to obtain copies of death certificates, so Vital Statistics is adding funeral directors or their designees from the funeral home, but limiting the timeframe to 120 days from the date of registration. After that point, then the funeral home would no longer be able to request a certified copy of the death certificate from vital records on behalf of the family.

Brian Rebman stated that he believes it is a nice service that funeral homes provide, and he would hate to see that be eliminated. He asked what the Board could do to change this proposal.

Jennifer Kandt stated that if the Board is not supportive of the change, a motion could be made to contact Vital Statistics to advise them that the Board would be opposed to that particular section.

Brian Rebman stated that he would like to see that there be no limitation on the timeframe, as funeral providers are in the business of serving families.

Tammy Dermody stated she would rather not see a time limit, as the funeral homes are now going to be calculating dates to see whether they can still provide to the family or send them elsewhere.

Randy Sharp stated from a public aspect of having been through this before with his mom, he agrees that it is stressful to have to go two or three different agencies to get a death certificate of a deceased person. He wouldn't support a time limit.

Brian Rebman stated there used to be a satellite branch in Mesquite for almost three or four years which is no longer there, so families would have to get them from Vital Records in Vegas. He thinks that the public is dependent on the funeral provider to assist with navigating this process, and since the funeral home does it all the time, it is easy for the funeral home. He certainly thinks that it is a great service they provide families.

MOTION: Brian Rebman moved to advise Vital Statistics that the Funeral Board would oppose the time limitation. Tammy Dermody seconded the motion and the motion was carried unanimously.

6. Introduction of new Board Inspector/Investigator

Jennifer Kandt introduced James Loveless as the new Board investigator/inspector. She stated that James is retiring from the Humboldt County Police Department as a former detective.

James Loveless addressed the Board and stated that he has worked in law enforcement for 16 years and was a lead coroner for Humboldt County. He stated that he has been a detective since 2009, in law enforcement since 2001, and prior to that he was retired from the military. He said that he has been married for 35 years, has two adult children and four grandchildren.

Dr. Wayne Fazzino asked about his Deputy Coroner training.

James Loveless stated that he has done many hours of training in Washoe County and Clark County, and has done advanced homicide investigations and domestic violence investigations.

Dr. Wayne Fazzino welcomed James Loveless.

Jennifer Kandt stated that she would like to thank John Lawrence for allowing Peter Shaw to accompany James Loveless to complete an initial inspection to assist with training.

7. Discussion, recommendation, and possible action regarding review and approval of minutes of meetings (For possible action)

a. March 15, 2016

Henna Rasul request that Kathleen Dussault recuse herself since she was not present at last meeting.

Kathleen Dussault recused herself from this particular discussion.

Tammy Dermody also recused herself since she was also not at last meeting.

MOTION: Randy Sharp moved to approve the March 15, 2016 minutes. Lorretta Guazzini seconded the motion and the motion was carried unanimously with Tammy Dermody and Kathleen Dussault recusing.

8. Discussion, recommendation, and possible action regarding Consent Decree for case number FB16-03 (For possible action)

a. Bunkers Memory Gardens Cemetery – CEM30

Kathleen Dussault recused herself as she stated she has prior knowledge of the facts of this case.

Tammy Dermody asked who would be inspecting to make sure they comply with the terms and who will be paying for the future inspections.

Jennifer Kandt stated that she would probably be the one doing these inspections since she had done the two initial visits and she knows the original conditions. She stated that there were some severe problems, but that they have already made significant improvements. Jennifer stated that the consent decree does not include any future costs.

Brian Rebman stated that it looks like some of the costs are being covered with the investigative and administrative fees and fines.

Jennifer Kandt stated that the investigative and legal fees are what have been accrued up to this date and the administrative fines are what the Board sends to the State Treasures Office. She stated that the major costs for compliance will be for the cemetery to actually make the changes as stated in the consent decree.

MOTION: Tammy Dermody moved to approve consent decree for FB16-03. Bart Burton seconded the motion and the motion carried unanimously with Kathleen Dussault recusing.

9. **Discussion, recommendation, and possible action regarding granting the following Funeral Arranger Licenses (For possible action)**
 - a. Natisha Nicole DeGourville

Kathleen Dussault asked if the prior domestic violence conviction would be considered as part of the moral character evaluation.

Jennifer Kandt stated that Board staff can approve any of the applications where the criminal history is more than ten years old. Individuals who have criminal history that is less than ten years old have to come before the Board and the Board makes the determination regarding moral character. She stated that there is currently a policy in place regarding moral character evaluation and clarified that once the regulations regarding moral character are in place, the policy will be eliminated. Until that time, the Board is guided by the policy that the Board approved. She said that the domestic violence incident is definitely something the Board would consider.

Bart Burton stated that he would like to recuse himself as the applicant works for the same company.

Brian Rebman asked if it would be appropriate for Bart Burton to speak on behalf of the applicant's character even though he recused himself.

Bart Burton stated that he just found out that they work for the same company and does not have knowledge of the applicant.

Kathleen Dussault stated that upon reviewing the criminal history, it appears to have been resolved with a minimal fine of \$200.

The Board requested that the applicant discuss the charges and incident from 2012.

Natisha DeGourville stated she was going through a very bitter and nasty divorce with her husband at that time. She said that there are really no excuses, but they had a situation that escalated to violence. She said that now today she regrets her actions.

Kathleen Dussault thanked the applicant for the additional details and clarified that the applicant took the required class and paid the fines.

MOTION: Brian Rebman moved to approve a Funeral Arranger License to Natisha Nicole DeGourville. Tammy Dermody seconded the motion with Bart Burton recusing as the applicant is employed with the same company and the motion was carried unanimously.

b. Harrison Cody Billian

Harrison Cody Billian introduced himself to the Board.

Bart Burton questioned the pending testing results.

Jennifer Kandt stated that this individual has actually not yet passed the test. He was scheduled to take the test prior to the Board meeting. When he showed up to take the test at the testing facility, he discovered that he had an expired driver's license and they would not allow him to take the test. The applicant asked that the Board consider the moral character issue and approve the application pending completion of the test. Any approval would be contingent upon passing the required testing.

Harrison Cody Billian stated the 2008 charges were for possession and manufacture of a short barrel shot gun. He stated he was negligent when purchasing the firearm from a private party and not verifying whether the length of the barrel was legal. When he was caught with the weapon he was charged. He served three years of probation, and completed early due to good behavior. He stated that since the incident, he has gone to college and is two classes away from his Associate's Degree in business. He said that he has been working in the industry for La Paloma for over a year now. Regarding his expired license, he said that his birthday was May 22, 2016 and he had a newborn two days prior to the test date so he was not thinking about his license as he was focused on taking care of his girlfriend and his son in the hospital.

Dr. Wayne Fazzino asked how law enforcement discovered the weapon.

Harrison Cody Billian stated that there was a confrontation at his home which led to a discharge of the weapon. When law enforcement arrived, he informed them of the firearm. He stated that the short barrel shotgun was not the weapon that was discharged as it was dismantled. He turned the weapon over to law enforcement.

Brian Rebman asked why he was charged for the possession of the firearm, but not for the discharge of the other weapon.

Harrison Cody Billian stated that he was not charged with discharge of the firearm because it was accidental. He said that there was a confrontation at his house, and a couple of the women at the party tried to pull the firearm out of his hands when it discharged. Mr. Billian said that when law enforcement arrived they went into his home to retrieve the firearm that was discharged and discovered the shotgun.

Tammy Dermody asked why he had the need for a short barrel shotgun.

Harrison Cody Billian stated it was a first time purchase and that he was negligent and stupid.

Kathleen Dussault asked if the applicant was licensed to carry the firearms and clarification that a license was not needed.

Lorretta Guazzini asked if the firearm was pointed at any of the people when it was discharged at the party.

Harrison Cody Billian stated that the firearm was pointed toward the ground when people at the party started to try to pull it out of his hands. He stated that alcohol was a factor in the incident.

There was discussion that the incident was in 2008, and in 2006 there was a DUI.

Harrison Cody Billian stated that he has changed his life in the 8 years since then, and it was an awakening for him. He said that he knows it was a horrible incident and he did something that he

has had to pay for every day since. He stated that he has been sober since the incident and has pursued a business degree. He has held down a job and is employed. He stated that he enjoys the funeral industry and wants to have an arranger's license to serve families in the State of Nevada.

Bart Burton asked what he is currently doing for La Paloma.

Harrison Cody Billian stated that he is a certified crematory operator and removal technician and does any other things that are required of him. He stated that he would like to make arrangements. He said that he has been employed with La Paloma since May of last year and that he has dedicated a lot of his time to this company and the families.

There was clarification that if he was approved, it would be contingent upon passing the test, but he would not have to come back before the Board to review the moral character.

MOTION: Lorretta Guazzini moved to approve a Funeral Arranger License to Harrison Cody Billian contingent upon his passing the NVLRR testing. Brian Rebman seconded the motion and the motion was carried unanimously.

10. Discussion, recommendation, and possible action regarding granting the following Embalmer Licenses (For possible action)
 - a. Darren Kent Hill

MOTION: Bart Burton moved to approve an Embalmer License to Darren Kent Hill. Lorretta Guazzini seconded the motion with Tammy Dermody recusing as Mr. Hill is an employee for her company and Wayne Fazzino recusing as he is familiar with Mr. Hill and the motion was carried unanimously.

11. Discussion, recommendation, and possible action regarding granting the following Apprentice Embalmer Certificate of Registration (For possible action)
 - a. David Alan Penkala

Bart Burton stated that he will need to recuse himself as the applicant works for the same company.

Jennifer Kandt stated that the application was initially submitted without any disclosure of prior criminal convictions. The Board did run a background check and it revealed some prior felonies. The applicant was contacted regarding the failure to disclose those convictions and subsequently provided the criminal history reporting forms.

Tammy Dermody asked the applicant why he did not disclose the criminal history.

David Alan Penkala stated that these incidents happened more than twenty years ago and he has spent twenty years forgetting it ever happened. He said that they were an extremely regrettable part of his life, and that he is embarrassed to be sitting in front of the Board today. He has spent a lot of time and effort to correct those mistakes and bad decisions. He said he has recently completed two degrees at American College with honors. He has dedicated his life to being in the funeral industry since he was in the eighth grade and it is regrettable that he made these mistakes along the way. He said he works with disadvantaged youth through the Big Brothers and Sisters program. He said he was requesting a second chance.

Tammy Dermody asked the applicant to explain the circumstances surrounding the forgery charges.

David Alan Penkala stated that he was fueling a drug addiction and making less money than was needed to sustain his drug problem. He said that he has since completed a rehabilitation program and thanks the Veterans Affairs inpatient rehabilitation program for their assistance. He said he is an honorably discharged disabled American Veteran.

Kathleen Dussault thanked him for his service and asked him to clarify the crime coded as public law 487.1 and the applicant stated that it was grand theft.

Tammy Dermody stated that she understands making mistakes and getting a second chance, but she really wishes he would have disclosed the convictions on the application as to her it does not show good moral character.

David Alan Penkala stated that he agreed.

Jennifer Kandt stated that in the past the Board had an applicant who failed to disclose convictions and the Board agreed to approve him contingent upon him reapplying with a new application properly disclosing the convictions.

There were questions regarding what Mr. Penkala had forged and clarification that he found a box of checks and used them to fuel his drug addiction.

There was discussion that because the charges were over 20 years old, if the applicant had originally disclosed them, he would have been able to be approved by staff. Because he lied on his application, he had to come before the Board.

Henna Rasul stated that the Board should be consistent.

Tammy Dermody asked if the motion could be for him to resubmit and then the Board could make a decision at the next meeting.

Henna Rasul stated that would be consistent with what was done with a prior applicant who had failed to disclose a criminal history.

Kathleen Dussault questioned whether the application was now complete as he had subsequently provided the criminal history reporting forms.

Jennifer Kandt pointed out page 4 of the application where the applicant answered no to the question regarding whether the applicant had ever been convicted of or plead guilty or nolo contendere to, a violation of ANY federal or state statute, city or county ordinance, or any law of a foreign country.

Brian Rebman asked where the applicant was currently employed.

David Alan Penkala stated that he is currently employed by Dignity Memorial, at FitzHenry's. He said he has been working for SCI for five years.

There was discussion on whether he would be able to remain employed at Fitzhenry's if he was not licensed today, and Mr. Penkala stated he would continue to pursue licensure.

Henna Rasul asked how far in the past these crimes were committed compared to the previous applicant that the Board required to resubmit.

Jennifer Kandt stated that the time periods were the same at approximately 20 years ago. She stated that the difference is the seriousness of the crimes. She said the prior applicant failed to disclose misdemeanor DUI and a deer hunting violation, and this applicant failed to disclose felony convictions.

Lorretta Guazzini asked about his current job duties for Fitzhenry's.

David Alan Penkala stated that he currently does transports, removals, and meets with families with a funeral director present. He said he needs the apprenticeship to be able to do embalming in the future.

Tammy Dermody asked if he was aware that he is not licensed to be meeting with families.

David Alan Penkala stated that he is not meeting with the families alone and that he only sits in on some of the conferences and arrangement processes with a licensed funeral director.

There was further discussion that if Mr. Penkala had disclosed those convictions from twenty years ago, based upon the current policies that the Board has, the Board would have approved him administratively. But because there was the failure to disclose, that creates the moral character issue.

Dr. Wayne Fazzino asked if Mr. Penkala had ever filled out a certificate of rehabilitation to have these matters covered up and Mr. Penkala stated that he had not.

MOTION: Tammy Dermody moved to reevaluate Mr. Penkala after he reapplies with a truthful and complete application. Lorretta Guazzini seconded the motion with Bart Burton recusing as they work for the same company and the motion was carried unanimously.

12. Discussion, recommendation, and possible action regarding request for approval of new Managing Funeral Director for the following (For possible action)

- a. Walter W. Hartley FD626 – Pahrump Family Mortuary EST56

MOTION: Tammy Dermody moved to approve Walter Hartley as Managing Funeral Director for Pahrump Family Mortuary. Bart Burton seconded the motion and the motion was carried unanimously.

Tammy Dermody asked how the Board will know if a funeral director is under the three funeral home limit.

Jennifer Kandt stated at this point in time, that requirement is not currently in regulation as those changes are still in progress. Right now, the statute only states that the Board “may” approve a funeral director to manage more than one location.

There was discussion on what would happen when the regulation passed and whether the individuals currently managing more than three locations would be grandfathered in to allow them to continue the practice.

Tammy Dermody questioned the ability to be able to grandfather them in since the funeral arrangers were not allowed to be grandfather in when the legislation passed.

There was clarification that with funeral arrangers, the Board didn’t have any established licenses at that time so it wasn’t something the Board could grandfather them into. The Board does currently have a statute that talks about approval of a managing funeral director and those have already been approved. She said the Board will need to decide how to address the issue. She also stated at this time, most funeral directors only manage one location as locations have already made changes knowing that this has been discussed for quite some time.

Tammy Dermody stated that if the regulation passes the Board should make funeral homes aware that individuals managing more than three locations will not be able to do so in the future. She said that because the funeral arrangers were not grandfathered in, then the funeral directors aren’t going to be grandfathered in either.

- b. Allen James Kopp FD772 – Davis Funeral Home-S. Eastern EST26

MOTION: *Kathleen Dussault moved to approve Allen James Kopp as Managing Funeral Director for Davis Funeral Home-S. Eastern. Lorretta Guazzini seconded the motion and the motion was carried unanimously.*

- c. Timothy Lawson FD909 – Las Vegas Cremations EST103

MOTION: *Tammy Dermody moved to approve Timothy Lawson as Managing Funeral Director for Las Vegas Cremations. Lorretta Guazzini seconded the motion and the motion was carried unanimously.*

- d. Douglas Lee Ray FD910 – Davis Funeral Home-S. Rainbow EST28

MOTION: *Tammy Dermody moved to approve Douglas Lee Ray as Managing Funeral Director for Davis Funeral Home-S. Rainbow. Lorretta Guazzini seconded the motion and the motion was carried unanimously.*

13. Discussion, recommendation, and possible action regarding granting a Direct Cremation Facility Permit to Simple Cremation, Inc., 1016 N. Rock Blvd., Unit 104, Sparks, Nevada (For possible action)

MOTION: *Tammy Dermody moved to approve the Direct Cremation Facility Permit to Simple Cremation, Inc. Bart Burton seconded the motion and the motion was carried unanimously.*

14. Discussion, recommendation, and possible action regarding granting a Crematory License to Autumn Cremation Services, 5660 Morgan Mill Road, Carson City, Nevada (For possible action)

MOTION: *Lorretta Guazzini moved to approve the Crematory License to Autumn Cremation Services. Randy Sharp seconded the motion and the motion was carried unanimously.*

15. Discussion, recommendation, and possible action regarding granting a Funeral Establishment Permit to Clark County Funeral Services, 2041 W. Bonanza Road, Las Vegas, Nevada (For possible action)

Jennifer Kandt stated that she did conduct the inspection and does not believe that they are in a position where they can be approved at this time. She stated that in the future, if they are ready, the Board could issue them a temporary permit until the next meeting. But at this time, she does not recommend approval.

Lorretta Guazzini asked why they were not ready.

Jennifer Kandt stated that there may be difficulties when owners are not part of the funeral industry, and they may have a lack of understanding in terms of what is required. She said that she had asked the owners if they would be making any preneed funeral arrangements and they were unaware of what preneed funeral arrangements were. She said that the general pricelist only listed packages and did not allow the consumer to purchase anything outside of a package which is a clear violation of FTC guidelines. She also stated that many of the required FTC disclosures were not listed on the general price list. She again stated that she would not recommend approval.

Dr. Wayne Fazzino asked if they were aware of the findings.

Jennifer Kandt stated that they are aware and were told that the Board would return for a subsequent inspections at a later date to see if they have been able to address the deficiencies.

Brian Rebman asked if Candy Grey was a licensed embalmer in Nevada.

Jennifer Kandt stated that Candy Grey is a licensed embalmer and funeral director.

Brian Rebman questioned why Candy Grey would not be aware of the FTC disclosure requirements.

Jennifer Kandt stated that Candy Grey was not present at the inspection so she did not know. There was discussion that it was her understanding that the owners would be employing Candy Grey to manage the location and he planned to be there full-time.

Brian Rebman asked about his prior experience and it was disclosed that he previously worked for Valley Funeral Home.

Brian Rebman asked if the current owners of this location had an affiliation with Valley Funeral Home and Jennifer Kandt stated that she was not aware of any affiliation.

Bart Burton stated that based on review of the inspection report, he does not believe they are ready to be approved. He said that they should be re-inspected once they have addressed their issues.

MOTION: Bart Burton moved to continue the application until they have made the necessary changes and there has been further inspection of the facility. Kathleen Dussault seconded the motion and the motion was carried unanimously.

16. Discussion, recommendation, and possible action regarding request from Gerald Hitchcock to approve containers for “green” burials and cremations (For possible action)

Lorretta Guazzini said she had spoken with Mr. Hitchcock yesterday and he clarified that he was asking whether he could utilize a bamboo tray which may not fall under the cremation container guidelines.

Jennifer Kandt stated that she discussed this matter with legal counsel, and legal counsel advised that there was no statute that gives the authority to the Board for approval of specific containers for burial or cremation. Statute only gives authority for the Board to approve transport containers. Each location needs to make sure that they comply with NRS 451.670 in terms of the containers they are utilizing for cremation. In terms of burial containers, there are no guidelines within statute, so a shroud could be used if the cemetery allows that practice.

Brian Rebman stated he thought one of the major issues with the cremation containers was that there needed to be some kind of a lid.

There was discussion on whether a lid was required and clarification that the statute states that the container must be closed. So the container used must be able to close.

Jennifer Kandt stated that the cremation container requirements are in statute and locations just need to comply with that statute. Additionally, locations need to ensure that they are providing the consumer what they are selling to the consumer. She stated that there have been some issues with locations requiring the consumer to purchase a cremation casket, and then rolling the decedent into the retort on a box lid.

Dr. Wayne Fazzino stated that it appears no action is needed by the Board.

17. Discussion, recommendation, and possible action regarding request for approval of audit services contract with Kohn and Company (For possible action)

Jennifer Kandt stated that the Board is required to have either an annual or biennial audit. She stated that a single year audit will cost \$7,500 and a biennial audit will cost \$8,500. Jennifer Kandt said that previously she did not want a two year audit because of so many of the financial issues that were found when she was hired, but now that those issues have been addressed and the last audit report had no findings, she was comfortable with a biennial audit.

Kathleen Dussault asked if this was the Board's incumbent audit company, and Jennifer reported that Kohn and Company had completed the previous two audits.

Kathleen Dussault asked if there was a state requirement for an annual audit, and Jennifer stated that statute allows the Board to make an election for an annual or biennial audit.

There was discussion on the potential cost savings for a two year audit. Dr. Randy Sharp asked if the same annual statements will be provided whether an audit is conducted annually or biennially and Jennifer state that all end of the year financial statements will still be presented.

Kathleen Dussault stated the proposal would be to skip the annual and contract for a two year audit which would achieve a significant savings.

Brian Rebman stated that it would save \$6,500.

Dr. Wayne Fazzino stated that as long as the Board is operating within statute and the Board is able to review all appropriate end of the year financial reports, he is comfortable with the two year audit.

MOTION: Kathleen Dussault moved to approve biennial audit at the cost of \$8,500 with Kohn and Company. Tammy Dermody seconded the motion and the motion was carried unanimously.

18. Discussion, recommendation, and possible action regarding revisions to Employment Policies and Procedures including changes to employee benefit programs (For possible action)

Jennifer Kandt stated that the Board is exempt from the State personnel system, so the Board had their own employment policies and procedures manual. She stated that the previous manual did not address sick and vacation accrual because at the time the manual was created, she was the only employee and those issues were addressed when she was hired. She stated that she would like to revise the manual to include the same accrual rates for State employees. She said that the language included in the manual was taken directly from the State personnel manual, and stated that she felt it was appropriate to mirror some of the same State benefits for Board employees which would allow for part time employees to accrue sick and vacation at a prorated amount. She also noted that employees would not be paid out for any sick time unless they had been employed by the Board for over 10 years.

She detailed a slight change to the payroll cycle stating that hourly employees are paid every two weeks, but salaried employees are paid twice per month.

She also stated that she was originally thinking the Board assistant, Marie Paakkari would need the medical benefits, but rates through the Affordable Care Act were lower than the State rates, so for now, there was not a request for health coverage.

There was discussion on the request to either join PERS or contribute the same percentage to Deferred Compensation. Jennifer said that she would prefer to have the percentage go to Deferred Compensation.

Bart Burton questioned the ten hours per month of sick and vacation time, and Jennifer stated that is the current rate accrued with the State.

Jennifer Kandt stated that the State was very generous with sick time and did not see how anyone would utilize that amount of time unless there was a catastrophic event such as an accident or long term illness. She stated that the State also allows the accrual to be proportional whether they are full-time or part-time.

There was further discussion regarding joining PERS and the inability to hire retired State employees if the Board were to participate PERS. Jennifer also stated that if the Board were to join PERS, they always have to participate.

MOTION: Tammy Dermody moves to accept the revisions to the employment policies and procedures and to allow the retirement benefits to a deferred compensation plan. Bart Burton seconded the motion and the motion was carried unanimously.

19. Discussion, recommendation and possible action regarding annual review of Executive Director performance and salary (For possible action)

Kathleen Dussault request to recuse herself having not had experience working with Jennifer Kandt for the past year.

Dr. Wayne Fazzino stated that recently evaluations were sent to Board members to evaluate the Executive Director and each and every evaluation indicated that she scored the highest on every category. He stated that all reviewers provided very positive comments and there were no negative comments or any areas of improvement noted.

Tammy Dermody thanked Jennifer for helping the Board to be on task doing the things the Board needs to do. She said that for the industry, for the Board, for the general public, Jennifer is thanked.

Jennifer Kandt stated that she has enjoyed the opportunity and it has been an enormous challenge. She stated that the work can be very difficult at times because when families file a complaint that ends up being dismissed, the family is unhappy, and when a complaint proceeds to discipline, then the licensee is unhappy. She thanked the Board members for all of the work they have put in to get the Board moving in the right direction. She also thanked Tammy for her oversight in signing checks and reviewing receipts. She stated that oversight of the Executive Director by Board members is very important.

Brian Rebman said that he thinks Jennifer is doing great. He said that he thought Jennifer had a lot of wisdom and feedback for various changes occurring. He stated that as a new Board member with no prior experience, Jennifer was great at helping him to understand the process. He said that Jennifer has been a pleasure to work with and was very nice to meet in person. Brian said he appreciates the direction the Board is moving.

Bart Burton stated being the only Board Member that was part of the old Board and now part of the new Board, he felt the Board has completely turned around and thinks it is a very positive direction. He said that he agreed with Tammy that it's nice that the public is being listened to and the industry is being held accountable. He said he has thoroughly enjoyed working with Jennifer and appreciates everything she has done.

Kathleen Dussault stated that first impressions are extremely positive and from what she has heard from her predecessor, the Board really has a strong leader in its Executive Director.

Dr. Wayne Fazzino stated that he thinks this was a very difficult position to come into and Jennifer has done a great job handling the challenges. He said that previously matters were handled quietly by telephone and now matters are transparent. He stated that both Jennifer and Marie have been exceptional to work with and it's nice to know that he can call someone up and ask for something and it gets done immediately. He stated that the professionalism the Board has now is absolutely amazing.

Lorretta Guazzini stated that the Board was very lucky to get Jennifer. She said that right from the initial interview she felt she was the right person and that she has caught up with all of the industry knowledge so quickly. Lorretta stated that she appreciates everything Jennifer has done.

Dr. Randy Sharp stated he appreciated Jennifer and her communication skills through email, verbal and keeping the Board apprised. He said he feels very comfortable in asking her questions and he is looking forward to working with her in the years to come.

Dr. Wayne Fazzino stated that there was a request for a five percent (5%) increase.

Tammy Dermody stated that she thinks that Jennifer Kandt has earned the five percent (5%). She said that Jennifer came onto a Board that was just unbelievable and she has had to deal with issues that a normal executive director would not have to deal with, including the different committees and changing of the statutes and regulations. She thinks she has more than earned it.

Brian Rebman asked if this would set any precedence for future increases.

Henna Rasul stated that it would not. She said that Jennifer will always be up for evaluation and the Board can decide whether or not to give an increase.

There was discussion that the Board previously approved a salary range for the Executive Director between \$59,000 and \$88,948, and that with the current proposed increase, she would still be well below the top end of the range which is based on comparable State salary schedules commensurate with the position.

MOTION: Lorretta Guazzini moved to grant the five percent (5%) raise to Jennifer Kandt. Dr. Randy Sharp seconded the motion and the motion was carried unanimously.

20. Discussion, recommendation, and possible action regarding approval of FY2017 Budget (For possible action)

Jennifer Kandt stated that the audit expense was put at \$7,500, but will decrease based on the Board's decision to conduct a biennial audit.

MOTION: Tammy Dermody moves to approve the budget as submitted for July 1, 2016 through June 30, 2017. Lorretta Guazzini seconded the motion and the motion was carried unanimously.

21. Financial Reports

- a. Regulatory Fee Collection
- b. FY2016 Budget vs. Actuals

Jennifer Kandt stated presented the regulatory report and stated that Final Wishes and Reno Cremation closed, but she believes there are still outstanding reports that have not yet been submitted. Additionally, there was a missing payment for Valley Funeral Home but since they have

closed, she doesn't believe that the Board will ever receive that missing payment from September 2015.

Jennifer presented the budget vs. actuals report and stated that there is a significant amount of revenue showing that will be deferred to future years. She said that now that the Board is on a two year renewal cycle, the revenue applies to three different fiscal years. She also indicated that she has discussed with the bookkeeper about deferring revenue quarterly as opposed to at the end of the year.

22. Overview of current complaint status

Jennifer Kandt stated that there have been twelve complaints submitted so far this year and she stated that was the total number for last year.

Lorretta Guazzini asked if the general subject matter regarding packaging of cremated remains was referring to someone complaining about how the remains were packaged.

Jennifer Kandt stated that the complaint was about the packaging not being suitable to be mailed.

Brian Rebman asked about the four complaints that appeared to be submitted on the same day.

Jennifer Kandt stated that they came from the same agency directed at four different locations.

23. Report from Executive Director, Jennifer Kandt

Jennifer Kandt presented a written report.

24. Report from Senior Deputy Attorney General

Henna Rasul stated no report at this time.

25. Board member comments

Dr. Wayne Fazzino stated are there any Board member comments. None.

26. Discussion regarding future agenda items and future meeting dates

Tuesday, September 20, 2016

Tuesday, December 13, 2016

27. Public comment

Note: No vote may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. (NRS 241.020)

Jay Gunter stated that he would be opposed to the provision only allowing 120 days for a funeral director to obtain a death certificate. He said that this goes to serving the public and sometimes they do not even get a death certificate signed for five or six months due to toxicology. He said he thinks a year after filing would be more reasonable. He said he has families that come in wanting a death certificate from ten years ago and it is part of the services they provide.

John Lawrence stated he agreed with Mr. Gunter. He said that all of the funeral homes were sent a questionnaire on impact on these new changes and he did not agree with them.

Warren Hardy representing La Paloma Funeral Services stated that he agreed with the comments of the Board members with regard to the job the Executive Director has done. He stated that they have been involved with the ongoing situation with the Board and thinks that it has certainly taken a very positive turn in terms of the condition of the Board. Regarding items 4, he stated that he was the one that requested this input from the Board on potential legislation. He stated that because the Board staff is turning around these approvals in a very timely manner, they may not necessarily go forward with legislation at this point. He also stated that he is discouraged by the decision today to not allow public comment during each individual item. He stated that he thought one of the strengths of the Board so far has been the openness in the dialog that has occurred with the public. He said that it has been mentioned a couple of times that the last meeting was a difficult meeting and he thought the last meeting was a very productive meeting. He said that there was a lot of interaction and some disagreement, but that he felt the final product in terms of the regulations is a good product. He said that democracy is not easy. Mr. Hardy stated that he knows that by allowing public comment during the beginning and end of the meeting, the Board is not in violation of the Open Meeting Law, but that the law does allow the Board to take comments during the meeting and thinks that is a much better way to involve the public. He stated that he felt the regulations were ultimately a good product but that there were still two issues that they may object to moving forward.

28. Adjournment (For possible action)

Meeting adjourned at 11:40 am.