

NEVADA FUNERAL AND CEMETERY SERVICES BOARD

MINUTES

Tuesday, October 02, 2018, at 10:00 a.m.
Video Conference Locations

Legislative Building
401 South Carson Street, Room 3138
Carson City, Nevada
and
Grant Sawyer Building
555 E. Washington Avenue, Room 4401
Las Vegas, 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, establish quorum.

The meeting began at 10:03 am and a quorum established.

Board Members Present

Dr. Randy Sharp, Chairman
Tammy Dermody, Secretary
Bart Burton
Brian Rebman
Christopher Naylor

Board Members Absent

Loretta Guazzini, Treasurer
Adam Garcia

Board Staff Present

Jennifer Kandt, Executive Director
Marie Paakkari, Administrative Assistant
Dr. Wayne Fazzino, Investigator/Inspector

Board Counsel Present

Peter Keegan, Deputy Attorney General

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)

No public comment.

3. **Discussion, recommendation, and possible action regarding review and approval of minutes of meetings (For possible action)**
 - a. June 5, 2018

MOTION: *Bart Burton moved to approve the June 5, 2018 minutes. Tammy Dermody seconded the motion and the motion was carried unanimously.*

4. **Discussion, recommendation, and possible action regarding Settlement Agreement pertaining to legal fees for case number FB17-01 (CV17-01565); BBBO, LLC dba LA PALOMA FUNERAL SERVICES Establishment Permit Nos. EST 88 and EST 107; Crematory License No. CRE 88; SHAUN BOWEN, Funeral Director License FD201; DUSTIN OLSON, Funeral Director License No. FD779 (For possible action)**

Jennifer Kandt introduced Michael Sullivan, Esq and handed out a copy of a settlement agreement for Board review.

Michael Sullivan, of Robison, Sharp, Sullivan and Brust, stated that he was hired to assist with negotiating and drafting a potential settlement. Mr. Sullivan stated that the matter involving La Paloma Funeral Services et al, had already been decided by this body and those individuals challenged the appropriateness of the costs and the attorney's fees that the Board incurred. Mr. Sullivan stated they were not challenging the underlying discipline or anything else. He stated that La Paloma had filed a petition in the Second Judicial District Court and the Honorable Lynn Simons issued her Order on June 11, 2018. Mr. Sullivan stated that Judge Simons decided in her Order that the Board had not considered enough evidence to make an informed decision on whether all of the costs and all of the attorney's fees were appropriate. Mr. Sullivan stated that Ms. Simons decision stated that the matter should be remanded back to the Board with further findings consistent with her decision, but she herself did not put any emphasis or bias on whether or not the costs and fees were appropriate.

Michael Sullivan stated that before having an actual hearing it has always been his suggestion to find out from the other side in any contested matter what they agree to, what they don't agree to, look at all the facts and see if there is any sort of compromise. Mr. Sullivan stated that if there is no compromise or if the parties are way apart, then the Board could have a full blown hearing and make a decision on the merits. Mr. Sullivan stated that the Board incurred about \$9,777 in costs and the attorney's fees that the Board incurred in prosecuting this matter were \$75,960. Mr. Sullivan stated that he and Jennifer Kandt went to Las Vegas and met with the attorneys for the funeral home and its representatives. He said that Greg Zunino from the Attorney General's Office was also present and after meeting, exchanging information and showing the actual billing records, the funeral home agreed that the costs were appropriate. The funeral home stated that they had a problem with the attorneys fees and they were not saying that there weren't attorneys fees incurred, their position was they did not think that the amount of the attorneys fees were appropriate. Mr. Sullivan stated that after going back and forth and with all informed consent, it was agreed upon by the Appellants that they would accept \$9,000 back from the monies that they have already paid of the \$75,960.

Mr. Sullivan stated that it was his recommendation that this offer be accepted by the Board based on the fact that amount is certainly less than the amount it would cost to have a hearing to prove otherwise. Mr. Sullivan stated that if the Board was not inclined to accept discounting the fees by \$9,000, what would happen is there would be a hearing and everyone would bring in their evidence on both sides and the Board would make a decision and that decision could be the full amount, it could be less, it wouldn't be more. Mr. Sullivan stated that whatever that decision is, the other side would have the ability to appeal that and challenge that. Mr. Sullivan stated that at some point, it just seems as if this makes economic and practical sense to put this matter to rest. Mr. Sullivan stated that the attorney for La Paloma Funeral Services et al signed off on the stipulation, Shaun Bowen signed off on the stipulation, Dustin Olson signed off on the stipulation and Mr. Sullivan stated the it was represented to him that they had full authority to stipulate and so the stipulated facts and conclusions of law are really only four parts. Mr. Sullivan stated that if its accepted, then after paying the \$9,000, the rest of the matter would stay in full force and effect.

Dr. Randy Sharp thanked Mr. Sullivan for his explanation to the Board as they are certainly not all attorneys. Dr. Sharp stated that he thought he might be missing the big picture here as he didn't understand why they feel that they were overcharged \$9,000.

Mr. Sullivan stated that he will summarize his perception of the way they explained it to him. Mr. Sullivan stated that his impression is that if the Board decides to use the Attorney General's office, the Attorney General's office charges a fee for that attorney's services. The Funeral Board is charged, takes money out of its budget, and has to pay the Attorney General's office. Mr. Sullivan stated that he believes their position is that the approximate \$150 per hour for an attorney within the Attorney General's Office should be less based on the annual salary of the attorney. They argue that the real charge to the people of the State of Nevada and the Government and the Attorney General and what her hourly rate should be is \$50 per hour not \$150. Mr. Sullivan stated that he did not agree with that, but he believes that is their argument. Mr. Sullivan stated that in a nut shell, they don't believe that the hourly rate that was charged and was actually paid is a fair amount. Mr. Sullivan stated that while that is up for debate, he stated that he obviously disagrees and he thinks that it is fine and if outside counsel had been used, it would have been closer to \$300 per hour. Mr. Sullivan stated that he believes that based on the outcome, the skill, the talent and everything, he believes that the amount, in his opinion is fair and reasonable.

Mr. Sullivan stated that what Judge Simons stated in the order is that the Board needs to examine evidence to prove it. Mr. Sullivan stated that he could assure the Board that if his firm was retained, had to put on the evidence, prepare everyone, and have the hearing, the total amount to do that would be in excess of \$9,000. Sometimes cases are resolved and settled, not because it is fair or right, but because it is just practical to do. Mr. Sullivan stated that it is his recommendation based on his experience of twenty-five years in litigation that sometimes it is good just to put it to rest.

Jennifer Kandt stated that she would like to clarify that if the Board were to have a hearing, the other side could appeal that decision again and could go back and do another petition for judicial review. Ms. Kandt stated that the Board can not recover any costs for the petition for judicial review so all the fees and costs that the Board has incurred just defending the petition for judicial review are nonrecoverable and they could do that again and the Board would continue with the process.

Warren Hardy, representing La Paloma Funeral Services stated that he believed much of what the counselor said he thinks is all accurate. Mr. Hardy stated that they certainly decided to settle this for all of the reasons that were articulated in terms of the expense of going forward. Mr. Hardy stated that the reason they went forward with the initial incidence, however, was because when they got the billing for the total amount which was, he thinks, was in excess of \$75,000 they asked for an accounting of that so that they could understand the itemization of that \$75,000. Mr. Hardy stated that they certainly understand and stipulate that when you settle a part of that is very often the payment of attorney fees. Mr. Hardy stated that the initial \$75,000 had to do with investigative costs and direct attorney fees. Mr. Hardy stated that there was an issue which was a bit unclear in the statute. Mr. Hardy stated that part of their concern, was that there was such a significant cost for investigative fees. Mr. Hardy stated this was not the venue for that, so they felt that settling it was the best way to go. Mr. Hardy stated that they will pursue their concerns with the statute as it relates to the collection of investigative costs at another time and another venue.

Jennifer Kandt stated that she must make a clarification on that because Mr. Hardy was making a false statement. She said that there were no investigative costs that were part of that \$75,000. Ms. Kandt stated that it was all direct billing from the Attorney General's office and there were no investigative costs from the Funeral Board. Ms. Kandt stated that the entire amount was legal fees from the Attorney General's office. Ms. Kandt stated that the \$9,777 that was the Board's costs which included serving subpoenas, costs for the court reporters and those were very detailed billing costs. Ms. Kandt stated that there were absolutely no investigative costs charged to the funeral home at all.

Warren Hardy stated thank you for that clarification. Mr. Hardy stated that they were unclear because, when they initially requested the breakdown of the costs, they were not able to obtain it. Mr. Hardy stated that was part of the reason they went forward. Mr. Hardy stated that he has no reason to believe that what Ms. Kandt stated is not true. Mr. Hardy stated that he was just trying to explain the reason they went forward with the judicial opinion in the first place and they are happy with the settlement and they think that it is fair. Mr. Hardy stated that they agree to that and stipulate to that and they support what is before the Board.

Peter Keegan stated that it appears to have been reviewed by all the parties and the Executive Director's comments, Mr. Hardy's and Mr. Sullivan's summary of the facts of the petition for judicial review speak for themselves and at this time a motion would be appropriate.

Dr. Randy Sharp stated for the record, he would like to state that from day one of that hearing, the defendants had an opportunity to proceed forward with the hearing but based on what he believes was a technicality in serving a notice that it was postponed for two to three months. Dr. Sharp just wanted to state that for the record that it could have been cleared up probably a little bit quicker.

Brian Rebman stated that he would like to thank Jennifer Kandt for clarifying about the investigative fees. Mr. Rebman stated that it was a pretty strong statement by Mr. Hardy and he is glad that Ms. Kandt cleared that up.

Tammy Dermody stated that she would have to abstain because she is in direct competition with La Paloma and in the past she has had to abstain

MOTION: Bart Burton moved to approve settlement agreement for La Paloma Funeral Services pertaining to the legal fees on case no. FB17-01. Christopher Naylor seconded the motion with Tammy Dermody abstaining since they are in direct competition.

- 5. Public hearing on proposed regulations. The Board will receive and hear all public comment regarding LCB file number R086-18 for changes to Chapters 451, 452 and 642 of Nevada Administrative Code. Public comment may be made in person or submitted in writing.**

Jennifer Kandt stated that the Board is at the final stages of the regulation process and this is the public hearing to get the final input from the public and then the next agenda item based on what any public comment might be would be to adopt the regulations and then they would move forward to having a hearing before the legislature. Ms. Kandt stated that at the last meeting there were some recommended changes. Ms. Kandt stated that Legislative Counsel Bureau ("LCB") made those recommended changes based on the public comment from the last workshop. Ms. Kandt stated that only one individual had provided comment on the regulations and that was Mr. Hardy. Ms. Kandt stated that the two main items were the refrigeration language and the notices required pursuant to an inspection. Ms. Kandt stated that they wanted to make sure that it is clear that there is due process and that there is a notice that they are getting under any scenario. Ms. Kandt stated that she talked to LCB about those concerns and making sure that it is written in such a way that it is very clear that there is due process and we absolutely would never take disciplinary action against someone without giving them a notice and then an opportunity to respond. Ms. Kandt stated that the recommendations from Mr. Hardy from the workshop were taken into account.

Dr. Randy Sharp stated this was the time and place for public comment regarding adoption of the regulation. He indicated that the Board was represented by Peter Keegan today. He also stated that there were copies of the proposed regulations available by the sign-in sheets. This hearing is a continuation of the process of collecting input from all interested parties.

Warren Hardy representing La Paloma Funeral Services stated that he wanted to, again, thank the Board and the staff, particularly Ms. Kandt for the effort that was put into the regulation. Mr. Hardy stated that although the issue of "approved by the Board" was not a major issue, they felt that it could cause some confusion so they very much appreciate the change and he thinks that "inspected by the Board" is clear that inspected by the Board contemplates that it be part of the regular Board inspections when a member of or representative of the Funeral Board comes in and inspects the facilities, they inspect refrigeration and it doesn't require them to come before this Board for approval every time they purchase a refrigeration device. Mr. Hardy stated that they appreciate very much the clarification now in the regulation on this because now the regulation is clear and they could have avoided much of what happened in the last couple years. Mr. Hardy stated that they think that this is a very good regulation. Mr. Hardy stated that he also very much appreciates the clarification that was provided on the issue of their concern regarding what appeared on its face that disciplinary action could be pursued against somebody without providing a notice of any kind of violation. Mr. Hardy stated that it is now clear through the LCB clarification that this is not the case. Mr. Hardy stated that under the provisions that this speaks to disciplinary proceedings and must be initiated in accordance with Chapters 233B and 228 of NRS and NRS 241.034 and NRS 642.518 all of which require strenuous due process. Mr. Hardy stated that they are satisfied with that language and appreciate the Board taking the extra time to provide those clarifications and again taking the time to work through these with them.

Mr. Hardy stated that again, he would like to clarify because he didn't mean for his initial his comments earlier to be viewed as challenging or aggressive as one of the Board members had commented. Mr. Hardy stated that he was simply trying to articulate why it was they questioned the initial Board order in the case. Mr. Hardy stated that they did not have the benefit of having the break down of the fees and so they were uncertain whether there were investigative costs. Mr. Hardy stated that he was only trying to clarify what their reasoning was in going forward with the petition. Mr. Hardy stated that they were very happy with the result and everything that has occurred on that with the finding of the settlement. Mr. Hardy stated that he just didn't mean for that to be at all aggressive or challenging because it certainly wasn't, he was just trying to clarify their position.

Mr. Hardy thanked the Board Chairman for getting this regulation right. Mr. Hardy stated that they think it looks good and they look forward to the Legislative Counsel or Legislative Commission and letting them know that we think the Board got it right.

Dr. Randy Sharp closed the hearing at 10:35 as there were no further comments.

6. **Consideration of public comment and possible adoption of LCB file number R086-18. The Board will consider fully all public comment received regarding the proposed regulatory changes under agenda item 3 5. This agenda item may involve the Board proposing changes to the regulation after consideration of all public comments and determine whether to adopt the regulation. (For possible action)**

Dr. Randy Sharp stated that it should be comments under agenda item 5 not agenda item 3.

Dr. Randy Sharp stated that it appears that the Board would adopt the regulations as written and called for a motion.

MOTION: Brian Rebman moved to adopt the regulatory provisions as written. Bart Burton seconded the motion and the motion was carried unanimously.

7. **Discussion, recommendation, and possible action regarding Consent Decrees for case number FB17-22 (For possible action):**
 - a. FitzHenry's Carson Valley Funeral Home EST58

Bart Burton stated that he would have to recuse from this matter since they are employed by same company. Mr. Burton stated that he is recusing from Consent Decree FB17-22 Establishment permit no. EST58 and FB17-22 Funeral Director License no. FD917.

Tammy Dermody stated that she would have to recuse as well since they are a direct competitor. Ms. Dermody stated that she is recusing from Consent Decree FB17-22 Establishment permit no. EST58 and FB17-22 Funeral Director License no. FD917.

MOTION: Brian Rebman moved accept the consent decree for case number FB17-22 regarding FitzHenry's Carson Valley Funeral Home EST58 as written. Christopher Naylor seconded the motion with Bart Burton recusing as they are employed by the same company and Tammy Dermody recusing as they are a direct competitor.

- b. Christie D. Wilde FD917

MOTION: Brian Rebman moved accept the consent decree for case number FB17-22 regarding Christie D. Wilde, Funeral Director License number FD917 as written. Christopher Naylor seconded the motion with Bart Burton recusing as they are employed by the same company and Tammy Dermody recusing as they are a direct competitor.

8. **Discussion, recommendation, and possible action regarding the following Embalmer Licenses (For possible action):**
 - a. Dewey Ellis, Jr.

MOTION: Bart Burton moved to approve the embalmer license for Dewey Ellis, Jr.. Dr. Randy Sharp seconded the motion and the motion was carried unanimously.

b. Kelsi Chantel Evans

MOTION: *Dr. Randy Sharp moved to approve the embalmer license for Kelsi Chantel Evans. Tammy Dermody seconded the motion with Bart Burton recusing as they work same company.*

c. Sheridan Hailey Ojers

MOTION: *Dr. Randy Sharp moved to approve the embalmer license for Sheridan Hailey Ojers. Bart Burton seconded the motion with Tammy Dermody recusing as they work for same company.*

9. Discussion, recommendation, and possible action regarding request for approval of new direct cremation facility; Simple Cremation, 3468 E. Sahara Avenue, Suite 150, Las Vegas and for request for approval of new managing funeral director for Ryan R. Bowen FD810 (For possible action)

Jennifer Kandt stated that Dr. Wayne Fazzino conducted the inspection yesterday. Ms. Kandt stated that she spoke with Dr. Fazzino this morning and indicated that all items were appropriate and complete and there were no issues with the inspection.

Dr. Randy Sharp thanked Dr. Fazzino for performing the inspection in a timely manner. Dr. Sharp asked if Dr. Fazzino could provide a brief synopsis of the inspection and recommendations, if any.

Dr. Wayne Fazzino stated that he could not give a recommendation, all he can do is state that everything that was on the inspection list, they passed and he gave that information to the Board Executive Director who would be responsible for the final recommendation.

Jennifer Kandt stated that in terms of the facility, Dr. Fazzino indicated that all items were complete and ready. Ms. Kandt stated that the only possible issue would be Mr. Bowen being the managing funeral director of that location based on the fact that he will manage six locations if approved. Ms. Kandt stated that a checklist was provided for the managing funeral director and they have to be approved by the Board to manage and that they must obtain approval prior to managing and there is a section that addresses granting the approval. Ms. Kandt stated that summarizes that they can not manage more than three unless the Board feels that it is in the best interest of the public.

Dr. Randy Sharp asked if Ryan Bowen is present at the Board meeting.

Dr. Wayne Fazzino stated that Mr. Bowen was not present, however, Mr. Warren Hardy was present and was representing Mr. Bowen.

Warren Hardy stated that he was happy to answer any questions.

Tammy Dermody asked if the other locations were grandfathered in before the new regulations.

Jennifer Kandt stated that there was not specific language regarding grandfathering and that was never the intention with the regulation but because the Board had already approved those locations, Ms. Kandt stated that she was told by the Attorney General's Office that there was no mechanism to then take that approval away since it was granted previously. Ms. Kandt stated that while the Board was going through the regulation approval process, Mr. Bowen had made representation that they were going to comply with the new regulation, but the Board has not yet received any request to change the managing funeral director for Mr. Bowen for the locations up North, which obviously those would be outside of that 120-mile requirement. Ms. Kandt stated that there was a request for Mr. Bowen to be removed from the La Paloma location down South which he used to manage.

Tammy Dermody stated that she personally feels that as a Board, we should be trying to move towards having a person manage no more than 3 locations. Ms. Dermody stated that if the Board approves this, we are just adding to what we are trying to get away from. Ms. Dermody stated that there was a lot of discussion about having only three facilities and the reasoning behind it. Ms. Dermody stated that she doesn't feel it would be appropriate to add yet another location under one individual.

Mr. Hardy stated that, he thinks some of the Board members were on the Board a number of years ago when they looked at the issue of limiting a managing funeral director to three locations within a certain geographic area. Mr. Hardy stated that they did not have any issue with that at the time with regard to employees being managing funeral directors, however, we thought that, and still believe strongly that there is a difference between an employee who is a funeral director and the owner of the company who has a company policy and thus practices policies within their company that they want to be the managing director. Mr. Hardy stated that a waiver was discussed to provide in certain circumstances where it wouldn't be harmful to the public that they could grant a waiver and allow them to proceed. Mr. Hardy stated that he thinks Mr. Bowen is trying to adjust his business policy by taking himself off of the responsibility of funeral director at La Paloma in Las Vegas. Mr. Hardy stated that obviously there are close management issues up there in the Northern Nevada facility that Mr. Bowen wants to keep a close eye on and wants to be intimately involved with which is the reason he is staying on that location. Mr. Hardy stated that he is trying to limit his managing funeral director responsibilities over the full-service facilities. Mr. Hardy stated that he is trying to move to just the Simple Cremation facilities, which are limited licenses. He stated that really, they are sales offices. Mr. Hardy stated that is where they meet with families to discuss arrangements and sometimes to deliver the remains of the cremation. Mr. Hardy stated that there are no bodies at that facility, there are no procedures done at that facility, there are no actual cremations done at those facilities, they are store fronts.

Mr. Hardy stated that they feel that there is certainly no reason he can't be the managing director over those. He stated that whenever they are open, there is a licensed funeral arranger at those facilities as well. Mr. Hardy stated that Mr. Bowen visits those locations regularly. He stated that they felt that there is a distinction between those and between funeral homes and that as the owner of the company he should have the ability to have direct oversight. Mr. Hardy stated that in addition, he is ultimately going to be responsible for any mismanagement. Mr. Hardy stated that is one of the reasons he feels so strongly about being the manager over these facilities. Mr. Hardy stated that if something goes wrong, the penalty comes back to the owner. Mr. Hardy stated that Mr. Bowen is placing Mr. Mitchell Amos over the La Paloma Funeral Services location and that Mr. Bowen just wants to manage these limited license facilities. Mr. Hardy stated that they think that is a reasonable request.

Dr. Randy Sharp stated for the record the only objection he has to this is as Tammy Dermody brought up, he oversees five facilities right now. Dr. Sharp stated that if you go onto the Funeral and Cemetery Services Board website, his name appears twice, once in 2015 and once in 2016 under disciplinary action and certainly his brother in 2017 on the case we handled here. Dr. Sharp stated that those would be his only concerns of giving him yet another establishment to try to manage or oversee.

Peter Keegan, Deputy Attorney General asked Mr. Hardy if he was an attorney.

Warren Hardy stated that he was not.

Peter Keegan asked if he was here on behalf of Mr. Bowen.

Warren Hardy stated yes.

Peter Keegan asked if Mr. Hardy had an interest in these facilities.

Warren Hardy stated that no he does not except that he is their lobbyist and their government affairs advisor. Mr. Hardy stated that as a matter of practice, he appears on his behalf on these matters.

Peter Keegan stated that this was his first time with the Funeral Board and he was not quite sure if there is any regulation or statute which would allow you to advocate on behalf of Mr. Bowen for a license. Mr. Keegan stated that he certainly feels that based on these regulations, Mr. Bowen needs to be here, or someone on behalf of Simple Cremation that is directly affiliated with the organization to explain how they are going to be available based on the 120-mile requirements. Mr. Keegan stated that he hasn't heard how that issue is going to be resolved based on the geographical location of the facilities that Mr. Bowen is already involved in. Mr. Keegan stated that he is certain that the Board members have concerns on that based on what they have represented.

Warren Hardy stated that he has sat there and witnessed numerous times where this Board has approved licensure and other things without the person being present. Mr. Hardy stated that he has a

grave concern about the way his client is treated occasionally on these matters. Mr. Hardy stated that he would be happy to stand down if the Board wants to deny this application and require Mr. Bowen to be here, he is fine with that. Mr. Hardy stated that he would ask the Board to go back and look at the number of times that this is done without an applicant being present. Mr. Hardy stated that he has nothing more to add.

Peter Keegan stated that he appreciated Mr. Hardy's concern, he is not a Board member and he doesn't have the ability to make decisions. Mr. Keegan stated that he was just raising the issue based on his responsibility as Board counsel and the regulations that are pertinent to this.

Warren Hardy interrupted Mr. Keegan by telling Mr. Keegan that if he can reference a statute or regulation stating he doesn't have the right to be there on behalf of a client when he is there regularly, he would be happy to stand down. Mr. Hardy stated that he does not want to do anything in violation of NRS. Mr. Hardy said if he would reference that statute, he would be happy to stand down.

Peter Keegan stated that he was not asking Mr. Hardy to stand down. Mr. Keegan stated that he was simply asking . . .

Warren Hardy interrupted Mr. Keegan stating it sounded he was.

Peter Keegan stated that he was just asking his . . .

Warren Hardy interrupted Mr. Keegan stating that he is not a lawyer. Mr. Hardy stated that he was not a lawyer and if Mr. Keegan did not believe that he has a right to be here statutorily, please reference that statute and he will stand down, otherwise he doesn't see a reason he can't continue the practice that he has done for over eight years in representing his client before this Board.

Peter Keegan stated that he appreciated that, and he is not asking Mr. Hardy to stand down. Mr. Keegan stated that he was simply asking his relation to the applicant.

Warren Hardy said that Mr. Keegan said he couldn't find any statute that allowed Mr. Hardy to be here and he is asking for that reference.

Peter Keegan told Mr. Hardy that did not want to have an argument with him, he just said that he reviewed the statutes and he did not see anything.

There was extensive dialogue between Mr. Hardy and Mr. Keegan where Mr. Keegan repeatedly asks Mr. Hardy to quit interrupting and Mr. Hardy continues to ask for reference to a statute.

Mr. Keegan stated that he thought that the Board could go ahead and review the application based on the information that has been provided.

Warren Hardy asked if it was a standard that is usually held before the Board that someone has to be an attorney to advocate on behalf of a client.

There was further extensive dialogue with Mr. Hardy questioning Mr. Keegan on an answer to his question about needing to be an attorney and Mr. Keegan indicating that he couldn't answer the question unless Mr. Hardy quit interrupting.

Peter Keegan stated that he simply asking Mr. Hardy his relation to Mr. Bowen, the applicant. Mr. Keegan said he was asking if Mr. Bowen was here so he could speak to the requirements of the regulation that have been put in place by this Board that the manager be directly available and within the 120 miles. Mr. Keegan said that he asked Mr. Hardy's relation because he is there advocating on behalf of Mr. Bowen. He also stated that he had no ill will towards Mr. Hardy.

Mr. Hardy stated that this seems to be another new requirement of his client. He stated that his client is doing the best he can to make sure that he is trying to abide by the regulations. Mr. Hardy stated that he is moving himself off of full-service locations and only managing store fronts where there is a licensed funeral arranger there to conduct business. Mr. Hardy stated when we put this regulation into place a number of years ago, the intent was for the Board to be able to authorize these situations if there was no

harm to the public. Mr. Hardy asked if somebody could explain to him the harm to the public if Mr. Bowen, as the owner of the company, has the authorization to oversee them.

Peter Keegan asked Mr. Hardy to please stop talking. Mr. Keegan stated that he had answered Mr. Hardy's questions and he was going on a bit of a diatribe. Mr. Keegan asked Mr. Hardy to cease the comments and allow the Board to ask any questions that they may have and proceed to vote on this application. Mr. Keegan stated to Mr. Hardy that he thought this was getting off topic.

Warren Hardy stated that he is trying to determine how he got off topic. Mr. Hardy told Mr. Keegan that he asked him a question that he thought was not germane, that he thought was unfair, and that he thought was targeting his client and he is trying to understand why Mr. Keegan asked that question.

Mr. Keegan stated that he believed that he explained why he asked the question and stated he does not want to be running the meeting. He asked for the Chairman to take control of the meeting again and either ask the questions that he needs to or call for a motion.

Bart Burton asked Jennifer Kandt if the Simple Cremation on Kietzke Lane was the only Simple Cremation up North.

Jennifer Kandt stated that there are two locations up North, which were previously approved. Ms. Kandt stated that there is a location in Sparks and one in Reno.

Tammy Dermody stated that she would also like to clarify that these are not simply sales offices, there is huge liability involved at these locations. Ms. Dermody stated that these locations are one of the biggest liabilities within the business.

Dr. Randy Sharp asked if Tammy Dermody could explain further.

Tammy Dermody stated that these locations are not just sales offices. She stated that this is the first line where individuals are meeting with the family, ensuring the proper individual is signing the authorization to cremate, and verifying all the information presented. Ms. Dermody stated that there is a lot of liability at these locations and that is why they are licensed. Ms. Dermody stated that they are not just a sales office.

Brian Rebman asked Jennifer Kandt if she could remind him when the Board changed the regulations to state that funeral directors could only manage three funeral homes and why.

Jennifer Kandt stated that initially, the Board wanted to allow for a managing funeral director to only manage one location because so many locations have multiple facilities and there was concern that a funeral director was not really overseeing what was happening at each location. She said ultimately the Board allowed for up to three. Ms. Kandt stated that at that point Mr. Hardy did raise concerns about owners and wanting to make sure that there was an exception, but only if the Board felt it was in the best interest of the public. Ms. Kandt stated that the idea was ultimately that one funeral director, one location and with funeral directors signing the death certificates they should be responsible for that case knowing what is happening with that case at a particular time and that is ultimately where the regulation came from.

Jennifer Kandt referenced the statutes and regulations and said that the Board has the authority, if you feel that its in the best interest of the public to allow them to manage more than 3.

Brian Rebman asked if there were other mortuaries in the State of Nevada or other funeral directors that are managing more than three facilities or if there was any other precedence.

Jennifer Kandt stated no, this is the only individual in the state who manages more than 3 locations.

Brian Rebman said if having someone else placed as a managing funeral director, as a business owner, obviously he can still oversee the business, and this doesn't restrict him from being able to manage the business from an economic side of things. He said that all the Board is stating and making sure that managing funeral directors are overseeing what is happening at those locations.

Dr. Randy Sharp asked Warren Hardy, if there are any other facilities around where Mr. Bowen proposes to be on E. Sahara. Dr. Sharp asked, in the best interest of the public if there was another competing facility around there or if this would be the first.

Warren Hardy stated that he did not know the answer to that question.

Brian Rebman asked if there was a reason why Mr. Bowen could not oversee the managing funeral director. He asked Mr. Hardy how that is outside the business model. Mr. Rebman stated it is clear in the statute that the emphasis is on three and he has five and is beyond the 120 miles. Mr. Rebman stated that he appreciates that Mr. Bowen wants to have ultimate responsibility for the facility, but he doesn't understand why he can't do that with having a managing funeral director.

Warren Hardy stated that Mr. Rebman asked a very good question. Mr. Hardy said they think the objective and the purpose of this Board is to protect the public, but presumably in doing so there ought to be some consideration given to whether or not there is over regulation on the business. Mr. Hardy stated that one of the things that they see with regulations sometimes is we come forward with a great idea, this is the best idea, this is the best way to protect the public when there is not really a problem. Mr. Hardy stated this is mostly philosophical, he just doesn't think there is a reason to disrupt their business model and their business model is that they have an owner of the company as a managing funeral director and that has been the business practice that we have one of the business owners who is a funeral director be the funeral director in charge of the facilities. Mr. Hardy stated that this Board has decided somehow that that is in the public interest not to allow the owner to do that. Mr. Hardy stated that the other reason is, historically, it is the owner's neck that is on the line anyway. Mr. Hardy stated that we are basically licensing funeral directors, we are licensing funeral arrangers, yet their necks are never on the line when penalty comes forward, its always the owner of the company. Mr. Hardy stated that if that is going to be the case, the Board should stop licensing other people and just go after the owner of the company. Mr. Hardy stated that they just don't see how the public is in harms way by having the owner of the company who is directly responsible to the company and who has the managing director the public can reach out to, not an employee, the owner of the company, we don't understand especially in a cremation facility and incidentally, Mr. Hardy stated that he never made the case that there weren't important things going on at those facilities, he never made the case that they weren't meeting with members of the public, filling out important paperwork and providing remains there. Mr. Hardy stated that he simply said that at no point are cremations done there or bodies there, so he wanted to clarify that.

Mr. Hardy stated that he guesses he is struggling to understand where the public welfare is in jeopardy by having Mr. Bowen oversee that. Mr. Hardy stated that it seems to be a solution in search of a problem so their business model has been disrupted, he thinks inappropriately, but they are doing their best, Mr. Bowen is trying to make adjustments. Mr. Bowen is taking himself off as the managing funeral director of his main facility and now he is just trying to implement his business model. Mr. Hardy stated that one of the things that he has suggested to the Director is that we allow a licensed arranger to oversee these facilities but that would require, as she pointed out correctly, a statutory change. He said that if someone can give him a valid reason why the public is in harms way by having the company owner oversee it, he will withdraw his objection. Mr. Hardy stated we are going to live with the judgment of the Board right, we agreed to that statute years ago to say that the Board has the ability to decide and make a judgment. Mr. Hardy stated that but it doesn't seem that we are doing that, it seems that we are not taking out a case-by-case basis, we are making a global judgment that Mr. Bowen shouldn't have the ability to be the director of his facility. Mr. Hardy stated that he thought, we agreed to years ago to allow the Board to look at it on a case-by-case basis.

Mr. Hardy stated that he would be delighted to have something other than past concerns that have been adjudicated and settled brought up. Mr. Hardy stated that this is a model company and he just can't understand the scrutiny.

Brian Rebman asked if there was an economic disadvantage to having a different managing funeral director.

Warren Hardy stated that he does not know whether that is germane to this discussion, and he also doesn't know how the last question is germane, whether there is competition, is that the job of the Board to regulate competition.

Mr. Rebman stated that he is just trying to understand why it is advantageous. Mr. Rebman stated that the last consent decree that we had before us, the funeral director that was not the owner was culpable and had to pay a fine so if you do have another funeral director involved, someone that is not an owner, there is culpability to that funeral director, their license is on the line, they do have an interest in protecting the business. Mr. Rebman stated you have asked the Board to give a reason why it is not in the best interest of the public, and Mr. Rebman stated that he thinks that when you stretch someone between so many different facilities and the distance involved, you are asking too much from that managing funeral director to try to oversee. Mr. Rebman stated that the funeral director is putting his signature on each death certificate, and he is trying to oversee that.

Mr. Rebman stated that he assumes that Rayan Bowen has a family and vacations and wants to be out of town at times, having someone else in charge of some of those things and having that responsibility he thinks would be a good thing. Mr. Rebman stated that to him, he hasn't understood Mr. Hardy's argument on this since the beginning. Mr. Rebman stated that he thought that it was better to have more layers and to have people in charge, so that is why he keeps feeling frustrated. Mr. Rebman stated that he thought it wasn't in the best interest of the public, he thinks that it is better to spread that responsibility and to have someone else.

Warren Hardy stated that he would respectfully submit that it is Mr. Bowen's decision if he wants to spend time with his family, not the Board's. Mr. Hardy stated that he just sees this as regulatory overreach at its most significant level. Mr. Hardy stated that he will probably get fired after saying this but that his direction from Mr. Bowen was that it was not a big deal, whatever they decide they want to do, this is not worth fighting over. Mr. Hardy stated that he comes to this Board regularly and he is just astonished by the level of scrutiny that occurs for Mr. Bowen and his companies when he watches others approved almost without discussion.

Dr. Randy Sharp thanked Mr. Hardy for his discussion. Dr. Sharp stated that he thought that the Board was taking a lot of rabbit trails that don't need to be addressed regarding this and requested a motion.

Bart Burton said he wouldn't have any problem with Mr. Bowen overseeing four locations down south, but because there are also two up north, he doesn't think that all of those should be under one managing funeral director.

Brian Rebman stated that he would agree with that as well, that if it was the four down in Vegas, that is much more palpable than Reno and the two up there.

Dr. Randy Sharp thanked Warren Hardy for his input. Dr. Sharp stated that the only reason he asked what was in that area of East Sahara to see if it was in the public's best interest to have a Simple Cremation facility there, that was his only purpose, he is not going into competitive market or anything like that. Dr. Sharp stated that it was just based on whether it was in the best interest of the public to have a facility closer to where people live.

Warren Hardy interrupted Chairman Sharp and stated okay, he accepts that, he just disagrees with that. Mr. Hardy said he just doesn't think that it's the Board, a regulatory Board made up of market participants to decide market conditions about where his client can put a facility, but says he is used to it, so it is fine. Mr. Hardy stated that he obviously can count votes, that is what he does for a living, so is it possible to get this approved contingent upon them submitting a different person as the managing director so that they don't have to delay opening the location.

Jennifer Kandt stated that the Board could certainly approve the location contingent upon a licensee in good standing who resides within 120 miles being the managing funeral director. Ms. Kandt stated that the other option would be for the Board to continue the matter to a future agenda. She said that the Board does have authority to issue temporary approval outside of the meeting so if the Board were to continue the decision, they could issue the temporary approval once they submit a different managing funeral director and then it would go before the full Board at the next meeting. Ms. Kandt stated that either one of those would be an option for the Board to consider and she is not aware if Mr. Keegan has a different opinion on that.

Peter Keegan stated that he agrees with the Executive Director's analysis, he would caution the Board only on the issue of compliance with the regulation for the 120 miles. Mr. Keegan stated that if there is going to be some sort of temporary license issued, he thinks that there should be a time frame set to have

the facilities in the Northern region or the Southern region, however it be done, managed by a licensee within a short duration of time before this new facility in the South is granted its license. Mr. Keegan stated that he thought that is the spirit of the regulation and that is the concern here. Mr. Keegan stated that we really haven't heard, in his mind, any explanation as to the availability of Mr. Bowen to make that jump which would alleviate that distance in the excess of 120 miles for the management of the facilities. Mr. Keegan stated that he thinks that's the concern that the Board should address if it is going to take the route of a temporary license.

Warren Hardy asked if counsel was saying that they need to now replace the additional funeral directors that are in the North that have been grandfathered in in the past. Mr. Hardy stated that he didn't think that we had any question about the five Mr. Bowen already manages because they had been grandfathered in per LCB.

Peter Keegan stated that he understood that, now your client is asking for a new license for a facility that is outside 120 miles of existing facilities so that is a new condition despite the grandfathering in so to alleviate what would be otherwise violation of the 120 mile restriction there would need to be, at least within this facility a managing funeral director to avoid having Mr. Bowen responsible for the five grandfathered in facilities which include two in the North that are outside the 120 miles and this new facility that is down South. Mr. Keegan stated his recommendation was for the Board to make the approval contingent upon this new facility at least having a managing funeral director that is not Mr. Bowen.

Warren Hardy said he followed Mr. Keegan and sees what Mr. Keegan is saying. Mr. Hardy stated either of the scenarios that Ms. Kandt brings up are fine with them. Mr. Hardy stated that they are just ready to go with this facility and would like to move forward so either of those are acceptable to them. Mr. Hardy stated that he just wanted to make sure because what he thought he heard counsel say that because of the 120-mile limit they needed to replace Mr. Bowen in Northern Nevada as well and he wanted to make sure that is not what was being said.

Peter Keegan stated yes, his recommendation was that if Mr. Bowen was going to be staffing this facility then the Northern facilities would have to have a different funeral director. Mr. Keegan stated you are creating a new violation of the 120-mile restriction if Mr. Bowen is granted a license to manage this facility so that has to be alleviated one way or another and that is the call of the Board.

Warren Hardy asked if the grandfathering in was for the number of locations or the distance. Mr. Hardy stated because if his option is to replace Mr. Bowen in one of the Northern facilities and allow him to manage this facility, that is something that he would like to take back to his client.

Peter Keegan stated that he doesn't know what Mr. Hardy's recommendation to the Board is, it is unclear, we are clearly in the bounds of a waiver or an extenuating temporary license at this point. Mr. Keegan stated that it is not the Board's determination to tell you how to manage your business or your client's business so unless you have a proposal for the Board, he thinks that it is difficult for the Board at this time for the Board to work around the conundrum that they are currently facing. Mr. Keegan stated that he thinks that there should be a motion at this point to take action or to continue this matter unless you have a solution that you would like to suggest to the Board.

Warren Hardy stated that he is trying to determine what the parameters are for a solution, because he thought what he heard Mr. Keegan say was it is an option for Mr. Bowen to go ahead under the five that he was grandfathered in on to then go ahead and manage this one here as long as he gives up management of ones in the North. Mr. Hardy stated that might be preferable. Mr. Hardy stated so he is unclear on terms of what he was grandfathered on and whether that is an acceptable term.

Brian Rebman stated that he thinks that both he and Bart Burton and think it would be much more palpable to the Board if he were to give up both in the North and then take the four in Las Vegas. Mr. Rebman stated that the 120-mile distance whether it is two in the North or one in the North is still there so that would be much more palpable to the Board. Mr. Rebman stated that it seems reasonable he could manage the four in Vegas, but when you add the North, that is what gives him heartburn.

Bart Burton stated with what Mr. Rebman stated, he does agree with him, but that is something that you have to go back to Mr. Bowen and have a conversation with him. Mr. Burton stated that his thought was the facility has been inspected, everything is in order, with the way it sits, we don't feel comfortable

having Ryan Bowen manage a sixth or seventh location. Mr. Burton stated that he did not have a problem approving this, but we need to have another managing funeral director in the South.

Warren Hardy stated he understood. He said that his question is, is he forfeiting his grandfathered locations in the North by giving up those two seats and transferring them to the South.

Peter Keegan said he thinks this has gone on quite some time, and if there are further questions for the staff regarding the grandfathering in, he doesn't think that it is appropriate at this time for the Board to be giving you advice as to implications to your license and how to structure the businesses to avoid penalties. Mr. Keegan stated there is an application for a new managing funeral director before the Board and he thinks that there should be action at this time. He said that we have spent quite a bit of time on this and if there is further questions that Mr. Hardy has he thinks that it should either be continued, at your request or the Board could be addressing this at another time

Warren Hardy said that democracy is hard counselor and he has sat through hours and hours of hearings as a member of the State Senate and if Mr. Keegan is too busy for this, he appreciates that, and will stand down. Mr. Hardy asked how can he advise his client, as all he is trying to do is what the Board is asking him to do by advising him to give up the two in the North and focus all of his in the South. Mr. Hardy stated that the does not know if he could do that under the current agreement for grandfathering in that is all he is trying to find out. Mr. Hardy stated we don't need to do that here, he would appreciate an answer to that question, that is all he is trying to find out.

Tammy Dermody stated that she doesn't think that he needs that answer right now, she thinks that the Board just needs to move on this particular application in front of the Board.

Warren Hardy said he will withdraw the question. Mr. Hardy stated they would very much appreciate the ability to continue to move forward with the company or the new location by whatever mechanism the Board thinks is appropriate.

Bart Burton asked Jennifer Kandt what the motion should be if they approve them to start business but with a different managing funeral director.

Jennifer Kandt stated that the Board could approve it contingent upon submission of another managing funeral director who is licensed in good standing.

Bart Burton stated within 120 miles.

Jennifer Kandt stated within 120 miles of the location.

Dr. Randy Sharp asked Mr. Hardy, what would be a reasonable time within your business structure if we were to make it contingent with another funeral director assigned to that site.

Warren Hardy said that is gracious, he thinks that thirty days would be more than enough time. Mr. Hardy stated that this is his best-case scenario, but he thinks in his heart of hearts he may have known that this Board wasn't going to accept that, so he thinks thirty days is more than enough time to be able to make a replacement.

Dr. Randy Sharp stated that he would like to have a motion entertained about the application for Simple Cremation down in Las Vegas.

MOTION: Bart Burton moved to approve Simple Cremation at 3468 E. Sahara Avenue, Suite 150, Las Vegas contingent that within 30 days they submit a new managing funeral director who is licensed in good standing within 120 miles to place on the facility. Brian Rebman seconded the motion and the motion was carried unanimously.

10. Discussion, recommendation, and possible action regarding request for approval of new managing funeral director for the following locations (For possible action):
 - a. Nathan Stiffler FD857 – Bunker's Eden Vale Mortuary EST10

MOTION: *Brian Rebman moved to approve the managing funeral director request for Nathan Stiffler FD857. Dr. Randy Sharp seconded the motion and the motion was carried unanimously.*

- b. Mitchell Amos FD30 – La Paloma Funeral Services, LLC EST79

MOTION: *Dr. Randy Sharp moved to approve the managing funeral director request for Mitchell Amos FD30. Tammy Dermody seconded the motion and the motion was carried unanimously.*

- 11. Discussion, recommendation, and possible action regarding request for continuing education provider approval for continuing education provider Linda Stuart, requesting one (1) CEU; course title as follows (For possible action)
 - a. "A Place to Go: Why Ceremonies Matter"

Dr. Randy Sharp asked if those in the funeral industry could tell him how this course would be beneficial.

Brian Rebman stated that he has never seen this course actually presented, but he is looking at the agenda on the back page and he certainly thinks that he would benefit from watching or participating in this webinar. Mr. Rebman stated that he certainly thinks that his funeral arrangers would benefit from watching it as well. Mr. Rebman said he feels that as an industry, we are going away from the importance of a ceremony in relation to our deceased, so he thinks that anytime we can talk about the importance of why ceremonies matter is a good thing.

MOTION: *Brian Rebman moved to approve the request for continuing education provided for Linda Stuart, course "A Place to Go: Why Ceremonies Matter" and one (1) CEU. Tammy Dermody seconded the motion and the motion was carried unanimously.*

- 12. Discussion, recommendation, and possible action regarding request for continuing education provider approval for continuing education provider Dr. Alan D. Wolfelt, PH.D., requesting six (6) CEU's; course titles as follows (For possible action):
 - a. "Loving from the Outside In, Mourning From the Inside Out: Helping Yourself Heal When Someone Dies"

Jennifer Kandt stated that Dr. Alan Wolfelt has presentations that have been approved by the Academy of Professional Funeral Services Practitioners. Ms. Kandt stated that she was not aware if these courses have been submitted for approval and just are not approved yet so the Board does need to approve them.

MOTION: *Tammy Dermody moved to approve the request for continuing education provided for Dr. Alan D. Wolfelt, PH.D., "Loving from the Outside In, Mourning From the Inside Out. Helping Yourself Heal When Someone Dies." Bart Burton seconded the motion and the motion was carried unanimously.*

- b. "When Grief is 'Complicated:' A Model to Understand, Identify and Companion Grievers"

MOTION: *Tammy Dermody moved to approve the request for continuing education provided for Dr. Alan D. Wolfelt, PH.D., "When Grief is 'Complicated.' A Model to Understand, Identify and Companion Grievers." Bart Burton seconded the motion and the motion was carried unanimously.*

- 13. Discussion, recommendation, and possible action regarding publication of a Funeral Guide in accordance with NRS 642.066 (For possible action)

Jennifer Kandt stated that the Board has authority to produce a guide, but the Board has never done so. Ms. Kandt stated that it has come up again recently because there are some people who would like to see directories available through the hospices, hospitals, etc.

Jennifer Kandt said she needed to know whether the Board wanted to publish a guide and then they could discuss content.

Tammy Dermody asked how it would be updated. She stated that the hospitals and hospices print lists, but they are always outdated.

Jennifer Kandt stated that would be a challenge, but we would probably have to determine how often it would be printed or distributed. For instance every year or every two years. Tammy Dermody asked if this information is on the Board website.

Jennifer Kandt stated that all of the information is on the Board website.

Tammy Dermody stated that she felt that was sufficient.

Brian Rebman asked how it would be distributed.

Jennifer Kandt stated that she would have to get a list of all of the hospitals, hospices and any other pertinent locations

Brian Rebman asked who would absorb the costs.

Jennifer Kandt stated that the Board would absorb the costs.

Dr. Randy Sharp asked if would be possible to post the information on the website so people could access it.

Jennifer Kandt stated that all of this information is already on the website. Ms. Kandt stated that the name and address of each location is on the website, complaint procedures are on the website, FTC guide, Board contact information, etc. Ms. Kandt stated that she knows some funeral directors had expressed concern about people within hospices and hospitals perhaps making recommendations for going to particular funeral homes and this was discussed as a possible solution.

Dr. Randy Sharp stated his concern would be keeping it accurate, distribution and the costs. Dr. Sharp stated that he thought it was a great idea, and he understands the intent behind it.

Brian Rebman asked if the website lists prices for services.

Jennifer Kandt stated that the website does not list prices.

Dr. Randy Sharp stated in the future if we were to consider something like this would it be possible to build links if someone wanted funeral establishments in North Las Vegas.

Jennifer Kandt stated currently on the website it is set up by geographic area, so when you look at the list of licensed locations, it is broken down by the location.

Brian Rebman asked if GPL's were on the website.

Jennifer Kandt stated that GPL's were not on the website but if someone from the public contacted the Board and asked for that information, it could be provided since it is obtained as part of an inspection.

MOTION: Tammy Dermody moved to not publish a funeral guide. Dr. Randy Sharp seconded the motion and the motion was carried unanimously.

14. **Discussion, recommendation, and possible action regarding recommendations of the Executive Branch Audit Committee (For possible action)**
 - a. Comparison of Salaries and Similar State Positions

Jennifer Kandt stated that there has been an ongoing audit being conducted by the Executive Branch of the Governor's office. Ms. Kandt stated that there is a first audit report that is now public, there is a second part of that audit which is still on going. Ms. Kandt stated that based on the audit report, some of the main recommendations is that they wanted Boards to make sure that their salaries compare with similar State positions. Ms. Kandt stated that Boards have authority to create their own salary structures and there were Boards paying wages that exceeded what the Governor was making which was part of the report.

Ms. Kandt stated that her range would be the same, it is the one the Board approved long ago, and she is not asking for any change to that. Ms. Kandt stated that the same goes for the investigator, keeping that at the range that it was in prior. Ms. Kandt stated that the only change would be for Marie's position. Ms. Kandt stated that initially, the Board had compared her to an Admin 1 and she does think that Marie's position should be higher than an admin 1.

Jennifer Kandt overviewed the request. Ms. Kandt stated that range 33 is for the investigator position currently, 39 is the one for the Executive Director. She said changes are not requested to those ranges. She said the request is to move the assistant position from a 23 to a 29.

Bart Burton stated that he would like to make a motion to approve pay grade 29 for the assistant position.

Jennifer Kandt stated that we need a motion that the Board approves these classifications and job equivalents. Ms. Kandt stated that the Board would only allow for a cost of living increases when the approved by the state.

MOTION: *Bart Burton moved to approve the pay grades 29, 33 and 39 and authorize cost of living increases when the State authorizes and approve the comparison of salaries and similar state positions. Tammy Dermody seconded the motion and the motion was carried unanimously.*

b. Review Legal Support Framework

Jennifer Kandt stated that the Board would need to review and approve a legal support framework policy. Ms. Kandt stated that in the audit report prepared by the Governor's office, one of the things they recommended was that Boards evaluate the use of their legal counsel, whether they are using the Attorney General's office, outside counsel, whether they have contract positions, etc. Ms. Kandt stated that the Board has done this before, because the Board decided that it would mainly use the Attorney General's office, and enter into a contract with outside legal counsel as needed. Ms. Kandt stated that the Board did enter into that contract, it was approved by the State Board of Examiners. She said some of the Boards were questioned for having contracts which were never approved by the Board of Examiners, but this Board was not one of those entities.

Ms. Kandt stated that this would basically just be formal approval of a legal support framework policy.

MOTION: *Dr. Randy Sharp moved to approve the Legal Support Framework Policy as written. Tammy Dermody seconded the motion and the motion was carried unanimously.*

c. Operating Reserve Policy

Jennifer Kandt stated that this was one of the other recommendations to come out of this report. Ms. Kandt stated that this isn't specific to this Board, this is specific to all Boards to have an operating reserve policy. Ms. Kandt stated that as part of that report, different Boards and the number of months reserve that they have to operate within were listed. Ms. Kandt stated that this Board was in the lower to middle end and she believes that is a good place to be. Ms. Kandt stated that reserves were built up prior to enacting the legislation moving renewals every two years. Ms. Kandt stated that reserves also built up initially as the Board didn't have an office, an inspector, or an assistant. She said that now expenditures are fairly even with revenue. Ms. Kandt stated that part of the audit report was that Boards should have a policy governing those reserves.

MOTION: *Dr. Randy Sharp moved to approve the Operating Reserve Policy as written. Tammy Dermody seconded the motion and the motion was carried unanimously.*

15. Financial Reports

- a. Regulatory Fee Collection
- b. Financial Reports

Jennifer Kandt stated that the Board will get a revised July collection amount as several August payments were placed into July.

Dr. Randy Sharp asked if renewals every two years was working well.

Jennifer Kandt stated that she believed it is working well as there is so much work involved in renewals, it is working well for both staff and licensees.

16. Overview of current complaint status

Jennifer Kandt overviewed a general listing of current complaints.

17. Report from Executive Director, Jennifer Kandt

Jennifer Kandt stated that the regulations are now done. She said that Dr. Wayne Fazzino is currently in Las Vegas doing inspections. Ms. Kandt stated that she has been attending and presenting at certain meetings as indicated in the written report. She stated that there is also a list of individuals that have been approved outside of the meeting.

Tammy Dermody thanked Jennifer for everything she does.

Dr. Randy Sharp asked if approving the applicants outside of the meetings was working well.

Jennifer Kandt said it works very well as it would be difficult to make businesses wait 90 days to have funeral arrangers approved.

Bart Burton said he was at the National Board meeting in Albuquerque a couple weeks ago, and they were singing Jennifer's praises on her leadership on the Model Internship Act that she put together and they think the world of her. Mr. Burton said that Ms. Kandt represents the Board very well and thanked her.

Brian Rebman asked Ms. Kandt to give a report on her presentation at FARB and CANA.

Jennifer Kandt stated that for CANA, she was part of a panel of regulators discussing general crematory issues, body donation, and alkaline hydrolysis. She stated that cremation of body parts has become a hot topic for regulators and that was part of the discussion.

Jennifer Kandt stated that at FARB, she did a presentation on conflicts of interest. Ms. Kandt stated that she was actually asked to give that presentation to the National Board of Accountancy in Texas.

Christopher Naylor stated that he had an opportunity to go to FARB and witness Jennifer's presentation and said she did an excellent job. He said it was two eight-hour days and she was one of the first presenters and got a lot of praise from the 150 plus people in attendance.

18. Board member comments

No board member comments.

19. Discussion regarding future agenda items and future meeting dates

Jennifer Kandt asked if the Board could push the November meeting into December.

Brian Rebman asked if it could be pushed to January.

Jennifer Kandt stated it could not as the Board is required to conduct four meetings in one year.

There was further discussion on possible date changes and general consensus that the dates could be amended in the future.

~~November 13, 2018~~ – Changed to December 11, 2018
February 12, 2019
June 4, 2019
September 17, 2019
November 12, 2019

There was discussion on changing meeting time from 10:00 am to 9:00 am and it was agreed to keep the meeting start time at 10:00 am.

20. 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)

Rick Hearn with La Paloma Funeral Services asked why the Board decided not to allow continuing education to carry over.

Jennifer Kandt stated that the statutes were silent so the Board needed to make a decision within regulation and the Board ultimately decided that they did not want them to carry over. Ms. Kandt stated that the Board does not have a very high requirement for hours as it is essentially 6 hours per year. Ms. Kandt stated that Dr. Sharp mentioned that veterinarians are not allowed to carry over and continuing education is meant to be current.

Dr. Randy Sharp stated that for veterinarians, they are required to have twenty hours per year and he believes that it is valuable. Dr. Sharp stated that being a member of the public, if he walked into a funeral establishment and asked if they could tell him about alkaline hydrolysis and they did not know what he was talking about, that would not sit well with him. Dr. Sharp stated that he agrees with Jennifer and it is good to stay current, somethings don't change, but there are other things that are dynamic in the field.

There was no public comment in Las Vegas.

21. Adjournment

The meeting was adjourned at 12:38 pm.