



STATE OF NEVADA
FUNERAL AND CEMETERY SERVICES BOARD

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MINUTES

Wednesday, August 14, 2024, at 9:00 a.m.

The meeting was held via video conference and teleconference through Zoom Meetings and physically at the Board's office in Reno.

1. Call to order, roll call, establish quorum.

Chairperson Sussman called the meeting to order at 9:00 a.m. Roll call was taken and confirmed that a quorum was present. Dr. Randy Sharp had not yet arrived.

Board Members Present

Dr. Randy Sharp, Chairman
Kim Kandaras, Treasurer
Laura Sussman, Secretary
Dr. Donald Edward Chaney
Celena DiLullo
Dr. Raymond Giddens
Jeff Long

Board Staff Present

Stephanie Bryant McGee, Executive Director

Board Counsel Present

Matt Feeley, Deputy Attorney General

2. Public comment

Chairperson Sussman opened the floor to public comment. There were no comments.

3. Consent Agenda (For Possible Action)

Chairperson Sussman called for discussion of items on the consent agenda, as follows:

- A. Discussion, recommendation, and possible action regarding review and approval of minutes of the Board meeting on May 15, 2024, and June 28, 2024. (For possible action)
- B. Discussion, recommendation, and possible action regarding previously issued temporary establishment permit, direct cremation facility permit, crematory license applications and request for approval of new managing funeral directors. (For possible action.)
 - 1) Funeral Establishment Permit for Earth Funeral, EST144, located at 500 Pilot Road, Suite D, in Las Vegas. Joel Kuehn, FD852, as Managing Funeral Director. Temporary approval pursuant to NRS 642.080 effective July 30, 2024.
 - 2) Crematory License for Earth Funeral, CRE120, located at 500 Pilot Road, Suite D, in Las Vegas. Temporary approval pursuant to NRS 642.080 effective July 30, 2024.

- 3) Managing Funeral Director Request for Brandy Hall, FD944 – La Eternidad Funeral Home, EST134, effective July 1, 2024. Temporary approval pursuant to NRS 642.080 effective July 5, 2024.
- 4) Managing Funeral Director Request for Billy Vallie, Jr., FD918 – Davis Funeral Home EST28, effective June 28, 2024. Temporary approval pursuant to NRS 642.080 granted July 5, 2024.

Chairperson Sussman recused herself from Item 3.B.3.

Action: Dr. Giddens made a motion, seconded by Celina DeLillo, to approve all items on the consent agenda. The motion passed unanimously.

4. Discussion, recommendation, and possible action regarding the funeral director application submitted by Tiffany DeVito. (For possible action.)

Chairperson Sussman asked if Executive Director McGee had any comments regarding Ms. DeVito's application. Ms. McGee stated that, on May 17, 2024, Tiffany DeVito applied for a funeral director license. In her application, Ms. DeVito answered "no" to the question of whether she had ever been convicted of, pled guilty or *nolo contendere* to a violation of any law. The office ordered a criminal history background check on June 5, 2024.

Ms. McGee stated that the background report was complete on August 2, 2024, at which time the office discovered that Ms. DeVito had pled guilty to misdemeanor driving under the influence of liquor (DUI) in 2013. Ms. McGee contacted Ms. DeVito regarding the unreported conviction. The same day, Ms. DeVito submitted a subsequent Criminal History Reporting Form and an explanation as to why the crime was not disclosed. Ms. McGee stated that Ms. DeVito expressed her belief that if she completed her sentence within 6 months, the case would be dismissed and did not need to be disclosed and that she did not intend to misrepresent her criminal history.

Ms. McGee explained that, pursuant to Nevada Revised Statutes 642.360, to qualify for a funeral director license, an individual must be of good moral character. Ms. McGee added that, pursuant to Nevada Administrative Code 642.085, engaging in fraud or misrepresentation in connection with an application may be considered by the Board in determining whether the applicant is of good moral character. Ms. McGee stated that had the conviction been disclosed at the time of the application, the application for Ms. DeVito could have been approved at staff level. However, because the applicant did not disclose the criminal history and answered "no" to the criminal history question on the application, this matter has been brought before the Board.

Ms. McGee stated that, in the past, when criminal convictions were not disclosed, the Board would require the applicant to reapply with truthful answers. Upon receipt of a subsequent application, the application would be reconsidered by either staff or the Board, based on the Board's procedures and preference.

Ms. McGee added that Ms. DeVito is currently licensed as a funeral arranger and applied for the funeral arranger license on August 12, 2021, and that no criminal history was disclosed on the previous application nor did the crime appear on the background check run in 2021. Ms. McGee explained that the background check ordered at that time was conducted using only the applicant's name at the time, Tiffany Callaway. When the office received the current application, the background check was ordered using both the current name (DeVito) and the previous name (Callaway), resulting in a criminal history report that revealed the DUI.

Chairperson Sussman recognized Tiffany DeVito. Ms. DeVito explained that she did not disclose the criminal background, specifically the DUI in 2013, as she believed that if she completed her sentence within six months, the case would be dismissed and did not need to be disclosed. Ms. DeVito expressed her remorse for not having disclosed the criminal history at the time she applied for a license.

Action: Motion by Dr. Chaney, seconded by Ms. Kandaras, to require the applicant to reapply for the funeral director license with truthful answers and for the application to be handled at staff level, if appropriate. Motion carried. One opposed.

5. Discussion, recommendation, and possible action regarding the Notice of Change of Location for McDermott's Funeral and Cremation Service, EST110 from 2121 Western Avenue, Suite A-3, to 240 S. Decatur, Suite 135, Las Vegas. (For possible action.)

Chairperson Sussman asked Stephanie McGee if she had a presentation regarding this matter. Ms. McGee presented that McDermott's applied a request to change location from 2121 Western Avenue, Suite A-3, to 240 South Decatur on February 5, 2024. The crematory license and the storage facility would remain at the Western location.

The inspection report for the Decatur location is dated February 29, 2024. On March 19 and June 17, 2024, Ms. McGee provided a copy of the inspection report to Mr. Grant and requested that Mr. Grant address the inspector's finding that the preparation room floor was unfinished and dirty and that the drainage area was dirty. On July 9, Mr. Grant submitted photos of the preparation room floor, partially covered by black floor mats. In addition, in an email to Ms. McGee dated July 12, 2024, Mr. Grant confirmed that the dimensions of the proposed preparation room were 6 feet 9 inches by 6 feet 5 inches. In the inspection report, the photos show that the door to this room swings inward and that the room has a container for hazardous waste material and a sink.

Ms. McGee further explained that, when processing a funeral establishment application, the Board requires proof of zoning to be submitted with a Notice of Change of Location Form. Ms. McGee stated that zoning for McDermott's proposed new location is controlled by the City of Las Vegas and that before the City issues a business license, the City verifies that the facility is appropriately zoned.

On August 6, 2024, Mr. Grant submitted a copy of the business license issued by the City of Las Vegas to McDermott's. The business license included both a planning condition and a business licensing condition. The planning condition reads, "The overnight storage, embalming or preparation of deceased bodies shall not be permitted at this location." The business license condition reads, "This license authorizes all funeral home services such as viewings and memorial services. The Planning Land Use Condition below does not restrict the preparations involving clothing, hair, and/or makeup. The only body preparations that are prohibited at this establishment are those that involve bodily fluids and/or chemicals."

While a change of location may be approved at staff level, Ms. McGee stated that, after consultation with Chairman Sharp, she referred the application to the Board due to the size and condition of the preparation room and the zoning condition included on the business license issued to McDermott's by the City of Las Vegas.

Chairperson Sussman asked if there were other facilities in Nevada that do not meet the zoning requirements. Ms. McGee said that to her knowledge, there are none. Chairperson Sussman opened the matter to the Board for discussion.

Celena DiLullo asked Mr. Grant where the preparation takes place, Mr. Grant explained that he outsources preparation to other funeral establishments, such as Giddens Memorial Chapel and La Paloma. Mr. Grant explained that the City of Las Vegas explained to him that the conditions on his license allowed McDermott's to conduct funeral services except those where a body is present. He had been to a zoning hearing and explained to the neighbors of the proposed facility that he would have a prep room, but it was solely for licensing purposes. Mr. Grant stated that, at the zoning hearing, he agreed to the condition that no embalming would be conducted at the Decatur location. Mr. Grant further stated that the floor of the preparation room is clean but has scuff marks.

Dr. Giddens asked what the zoning classification is for the Decatur property. Mr. Grant said that the zoning is C1, limited commercial. Dr. Giddens explained that Giddens Memorial Chapel obtained a special use permit prior to getting licensed. Mr. Grant explained that he has a special use permit with the planning and business license conditions.

Chairperson Sussman asked Ms. McGee if the Board may license a funeral establishment with restrictions, such as not conducting embalming, or is it possible to issue a direct cremation facility license. Ms. McGee responded that she discussed with Mr. Grant the possibility of his applying for a direct cremation license and that Mr. Grant's desire is to have a full-service funeral establishment license. In addition, Ms. McGee explained that the issue regarding the zoning is whether a zoning restriction that limits the ability of a licensee from conducting all of the activities permitted by the license type, in this case a funeral establishment, is acceptable to the Board. In the past, the Board has required that an establishment be zoned for all services that could potentially be performed by the applicant, in this case a funeral establishment.

Kim Kandaras asked what the preparation room was used for before he applied for a location change. Mr. Grant stated that he had completed the build out, so there was nothing there before he did so. Ms. Kandaras asked why the floor and the sink were dirty if they were brand new. Mr. Grant stated that the floor was just rough concrete, and the sink was used by the contractors during construction and was scuffed, scratched, and damaged in the process. Mr. Grant further explained that because he never planned to use the space, he did not incur the expense to replace the sink or finish the floor.

Ms. Kandaras asked Mr. Grant if he could fit a cot or a gurney in the room and close the door. Mr. Grant said since he had never planned to do so, he hadn't tried, but he believes he could fit one in there. Ms. Kandaras stated that in this industry, there needs to be a minimum standard and that the preparation room should be able to be used in case of an emergency or natural disaster. Ms. Kandaras further stated that she did not believe that McDermott's proposed preparation room would meet the minimum standard. Ms. Kandaras asked if there was an alternative space in the building that Mr. Grant could use to meet the minimum standards. Mr. Grant said he could use one of the restrooms on the premises, which are about twice the size of his current preparation room in an emergency. Mr. Grant further stated that the room was swept and mopped and that the floor was clean. Mr. Kandaras pointed out that, in the inspection report, the inspector answered "no" to the question of "is the floor sanitary" and that the inspector also answered "no" to "is the location was being maintained in a professional and sanitary manner."

Chairperson Sussman asked if the Board was willing to license a facility to be a full services funeral establishment if there are restrictions placed by other offices in the community that restrict the activity and is that in the best interest of the public. Celena Dilullo stated that she agreed and noted that issuing the license with a zoning restriction sets a precedence for handling future applications with zoning restrictions.

Chris Grant expressed that the restrictions on the City of Las Vegas business license allow for dressing, hair, and makeup, and that the question was the definition of preparation. Mr. Grant stated that the term "preparation" is not defined and may not include embalming. Chairperson Sussman stated that "preparation of the deceased" should be as inclusive as possible.

Dr. Randy Sharp asked Mr. Grant to explain the distinction between the operations at the facility on Western as opposed to the Decatur location. Mr. Grant clarified that the funeral establishment services would be the same but that the zoning is different. The storage and crematory will remain at the Western Avenue location.

Dr. Sharp asked Deputy Attorney General Matt Feeley whether the Board could put restrictions on a license. Mr. Feeley said he did not see any statutory or regulation that specifically allows the Board to approve a license with restrictions. Mr. Feeley asked if the Board had ever issued a license with restrictions. Dr. Sharp stated that, to his knowledge, the Board had not done so. Mr. Feeley further stated that, if the Board does not put restrictions on, the license for a funeral establishment is all or nothing. Mr. Feeley advised the Board that, if the Board determines that the preparation room does not meet the requirements, then the Board would be giving McDermott's a license to use the preparation room, whether McDermott's uses the room or not.

Kim Kandaras pointed out that a handful of items in the inspection do not meet expectations and that there were notations regarding advertising and meeting with families at an unlicensed facility. Ms. Kandaras suggested that the Board not move forward until all the issues have been addressed. Stephanie McGee clarified that many of the issues in the inspection report had been addressed and that only the items brought forth need to be considered by the Board. Anything beyond that would be brought to the Board for separate consideration.

Jeff Long asked for clarification on the issues. Stephanie McGee explained that there were three issues currently before the Board regarding this application: whether the size of the preparation room was adequate for preparation of a body, whether the preparation room floor is considered sanitary, and whether the Board could issue a permit for the location given the zoning restrictions.

Jeff Long asked if there are industry standards for a sanitary floor. Ms. McGee explained that the floor could be sanitized by, for instance, installing flooring in that could be cleaned such that a member of the public would consider the floor sanitary. Ms. McGee stated that whether a floor is sanitary will need to be determined by the Board.

With respect to the preparation room, Ms. McGee stated that the question is whether the room is of adequate size to be used for preparation of a body. Ms. McGee further stated that, if Mr. Grant wanted to designate one of the restrooms as a preparation room, the room would need to meet the requirements of a preparation room, including a locking door and required signage. Mr. Grant stated that he knows for a fact that other licensed facilities in Nevada have smaller prep rooms. Ms. McGee stated that she confirmed with the Board's inspector, Wayne Fazzino, that there are no other licensed facilities with preparation rooms smaller than the preparation room at the proposed location.

Action: Dr. Raymond Giddens made a motion, seconded by Kim Kandaras, to deny the request for a location change and request that the application be resubmitted when the zoning restrictions have been removed, the preparation room meets the standards for embalming, including proper flooring and space for an embalming table or cot. The motion passed unanimously.

Dr. D. Edward Chaney requested that due diligence be completed before an application comes to the Board and that there be checklists available to guide applicants. Ms. McGee clarified that there are detailed checklists for each license type on the Board's website. Ms. McGee further stated that typically when someone applies for a location change, the applicant verifies zoning beforehand and will contact the Board. Dr. Raymond Giddens added that when his facility changed locations, he did not purchase property or sign a lease until zoning had been approved. Ms. Sussman expressed that she also confirmed that her facility met the requirements before she made any major financial commitments and that she used the checklists on the website. Dr. Sharp clarified that after discussing the request with Ms. McGee, he felt this matter should come before the Board as a whole.

Chairperson Sussman transferred Chair to Dr. Randy Sharp.

6. Discussion, recommendation, and possible action regarding crematory operator training approval for Jesse Robinson, Pacific Crematory Repair, course titled "Pacific Crematory Repair Operator Training Program." (For possible action.)

Chairman Sharp called on Stephanie McGee who explained that Jesse Robinson, on behalf of Pacific Crematory Repair submitted a request for approval of a crematory repair operator training program. Ms. McGee summarized the requirements for approval set forth in NAC 642.130 and stated that the course materials meet the technical requirements for approval.

Dr. Sharp asked about the difference between this training and training that is received when crematory equipment is installed. Ms. McGee confirmed that the Board has approved training from specific crematory equipment vendors that includes general information, as well as information for how to operate the specific manufacturer's equipment.

Action: Laura Sussman made a motion, seconded by Celena DiLullo, to approve the crematory operator training as submitted. The motion passed unanimously.

7. Discussion, recommendation and possible action regarding the written plan concerning communication with customers and the public pursuant to the Order issued in Case No. FB23-10, In the Matter of McDermott's Funeral and Cremation Service, a Funeral Establishment, and Christopher M. Grant, a Funeral Director. (For possible action.)

Chairman Sharp recognized Stephanie McGee who stated that, pursuant to the order issued in Case Number FB23-10, on June 28, 2024, Chris Grant was required to appear before the Board at the August meeting and present a written plan regarding communication with customers and the public. Chairman Sharp asked if any Board members had any questions.

Kim Kandaras asked if Mr. Grant employed any funeral arrangers. Ms. Kandaras asked whether Mr. Grant would be able to monitor his employees' activities to ensure they are following the communication procedures, completing paperwork, and not having contracts signed or paid for prior to receiving the decedent. Mr. Grant confirmed that he would directly train employees on this moving forward. Mr. Grant stated that he currently does not have a funeral arranger on staff.

Dr. Raymond Giddens asked Mr. Grant to confirm that the cremation paperwork gives a family the opportunity to request an identification viewing or to state that the family does not want an identification viewing. Mr. Grant stated that the cremation paperwork does not include information about identification viewing. Mr. Grant explained that a viewing request must be made on a separate form and must be approved by Mr. Grant. Dr. Giddens recommended that the viewing be added to the cremation paperwork for clarity.

Laura Sussman agreed with Dr. Giddens and stated that it is best practice in the industry to give people the option of how they want to identify the decedent, including whether the identification is an identification viewing; another family member that conducts the identification; using an identification tag from a prior facility, coroner's office, or hospital; or using an identifying mark on the body. Then, if something happens, the facility can send the family a document via DocuSign to document the agreement. Ms. Sussman explained that, by describing the identification process and giving the family a way to identify the decedent, Mr. Grant would be giving the family the opportunity to identify the decedent in a manner acceptable to the family.

Laura Sussman stated she recalled discussing at the last meeting tracking conversations with families and noting the substance of the conversation in the file. Ms. Sussman further recalled that the communication plan was to include staff alerting Mr. Grant if anything out of the ordinary occurs, so that he can become involved and communicate with the family. Ms. Sussman stated that she would like these items to be part of the written plan.

Jeff Long asked Mr. Grant if McDermott's made detailed documentation about meetings with clients and how this is recorded. Mr. Grant described how he documents each of his cases.

Action: Laura Sussman made a motion, seconded by Dr. D. Edward Chaney, to require Mr. Grant to include in his written plan methods available to families to identify a decedent, a procedure for tracking calls, and a procedure for alerting the manager of any issues that are out of the ordinary, and to require Mr. Grant to return to the next Board meeting to present the updated written plan. The motion passed unanimously.

8. Presentation of Language Access Plan for public comment. (For information only.)

Chairman Sharp asked Stephanie McGee to present the Language Access Plan. Ms. McGee stated that, pursuant to NRS 232.0081, the Board is required to develop and submit a Language Access Plan (LAP) to the State of Nevada, Office of New Americans. The intent of the plan is to delineate the accommodations available individual with limited English proficiency to access services offered by the Board.

The plan includes: the Board's policy (to ensure meaningful access to its services to every person regardless of their ability to speak, understand, read, or write English) and procedures for implementation and evaluation of the plan.

Ms. McGee stated that the Language Access Plan is posted to the Board's website and is available for public comments as required by NRS 232.0081.

Chairman Sharp opened the floor for public comments. There were no public comments.

9. Discussion, recommendation and possible action regarding the Language Access Plan. (For possible action.)

Chairman Sharp asked if any Board members have any questions regarding the Language Access Plan.

Dr. D. Edward Chaney asked whether the plan is required and if the proposed plan meets the expectations of the statute. Ms. McGee responded that the Language Access Plan is required by NRS 232.0081. Ms. McGee explained that the Board will continue to survey licensees and callers to make sure that if an individual needs translation services that the Board provide appropriate translation services. Deputy Attorney General Matt Feeley stated that he did not have any concerns and that the plan was satisfactory to him.

Action: Laura Sussman made a motion, seconded by Dr. Raymond Giddens, to accept the plan as written. The motion passed unanimously.

10. Financial Reports (For information only.)

Chairman Sharp asked Stephanie McGee to present the financial statements.

Ms. McGee stated that the financial statements are included in the meeting materials. Ms. McGee stated that the balance sheet is a snapshot of the financial status as of July 31, 2024, and reflects available cash of \$406,975.

Ms. McGee stated that the FY24 balance sheet reflects recorded revenue and expenses as of August 9 and explained that regulatory fees are being collected or refunded for FY24, which will impact the final revenue collection for the year. Ms. McGee stated that revenue as of August 9th is 99.14% of the anticipated revenue for the year.

With respect to FY24 expenses, Ms. McGee explained that bank fees increased and were almost double what was anticipated. She stated that the office collects many licensing and regulatory fees via credit card, and the credit card vendor fees are reflected in this line item. In addition, Ms. McGee explained that the insurance expenses were higher than expected as the Board moved from the privately placed workers comp to the State workers comp system, as required by law. Travelers is auditing the prior policy and there may be a refund of unearned premium. Finally, she explained that many of the remaining expense line items are a fraction of the amount budgeted, as she was able to find savings in several areas.

Ms. McGee stated that the FY25 budget vs actual statement is included in the packet, as well, and reflects revenue and expenses recorded through the beginning of August. She explained that regulatory fees and expense invoices have not come in for that period.

Finally, Ms. McGee stated that the FY24 regulatory fees statement reflects the regulatory fees for FY24, although there are a few regulatory fees that have not yet been recorded for May and June. Ms. McGee explained that the FY24 regulatory fees are slightly less than those of FY23; FY23 average was \$23,935 per month, whereas FY24 averaged \$23,225. Ms. McGee pointed out that regulatory fees do not accurately reflect a death rate, as the fees do not reflect social services cases, for which no fee is collected.

Laura Sussman commended Ms. McGee on her ability to turn around the budget concerns from last year. Ms. Kandaras agreed.

11. Report from Executive Director, Stephanie Bryant McGee (For information only.)

Chairman Sharp called on Stephanie McGee to present her report. Ms. McGee stated that licensing statistics, as well as list of individuals licensed since May 8, 2024, are in her written report included in the meeting packet. She highlighted that the Board approved Earth Funerals, the first natural organic reduction facility in Nevada.

Finally, Ms. McGee presented a summary of an email from the Federal Trade Commission (FTC) to the Board identifying a potential scam against funeral homes. The FTC email explained that the scam is carried out by a person calling a funeral home pretending to be a customer wanting cremation or memorial services and stating that they want to use a specific vendor, such as a music group for a memorial service. The scammer will ask the funeral home to pay the vendor in advance using a bank transfer and will promise to pay the funeral home back via check. The scammer's check will be fake, and the vendors are not legitimate. The scammer will have obtained the funds used to pay the fake vendor. The FTC explained that it is difficult, even for a bank employee, to identify a fake check. The bank will accept the check and, because the bank is required to make the funds available quickly, it will appear that the check has cleared. It can take weeks for the financial institution to discover that the check is fake, and the funeral home is stuck paying the money back to the bank.

12. Discussion regarding future agenda items and future meeting dates (For possible action.)

Chairman Sharp asked Board members to check their calendars regarding the future proposed meeting dates, as follows:

Wednesday, November 13, 2024, at 9 a.m.
Wednesday, February 12, 2025, at 9 a.m.
Wednesday, May 14, 2025, at 9 a.m.

Stephanie McGee noted that one Board member said that November 13th may not work for them. She will try to keep it on a Wednesday and not get too close to Thanksgiving.

13. Public comment

Chairman Sharp opened the floor for public comment and stated that 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).

There was no public comment.

14. Adjournment (For Possible Action)

Action: Dr. Randy Sharp made a motion, seconded by Kim Kandaras, to adjourn the meeting. The motion passed unanimously. The meeting was adjourned at 11:14 a.m.