

Minutes
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
TELECONFERENCE MEETING
January 6, 2011 - 10:00 A.M.

1. Call to Order and Roll Call

Mr. Jody Brandenburg, Chair, called the meeting to order at 10:00 am.

Mr. Doug Shropshire, Director, requested to make the usual prefatory comments for the record and then take the roll.

As a preliminary matter, let me state for the record that my name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is Thursday, January 6, 2011. The time is approximately 10:00am. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Weekly. An agenda for this meeting had been made available to interested persons. Members of the Board are participating by Teleconference. Members of the Public have been invited to listen in via speakerphone with us here in the Alexander Building, Conference Room 230A in Tallahassee, Florida and in fact we have some members of the Public here with us. My Assistant, Ms LaTonya Bryant-Parker, will take minutes of the meeting.

Persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board Chair, Mr. Brandenburg, runs the meeting. Persons desiring to speak should initially ask the Chair for permission. All persons participating by phone, other than the Chair and Board members while speaking, are asked to place their phones on mute at all times while listening. We ask this to enhance the audio quality of the Teleconference. If any Member is disconnected they can call back to the same number called initially.

At this time I will take the roll and Board members will please respond clearly with "present" when I call their name:

PRESENT (via phone):

Joseph "Jody" Brandenburg, Chairman
Gail Thomas-DeWitt, Vice-Chairman
Jean Anderson
Lewis "Lew" Hall
Powell Helm
Nancy Hubbell
Tracy Huggins
Ken Jones
Col. Don Stiegman

ALSO PRESENT:

Doug Shropshire, Executive Director
Allison Dudley, Board Counsel
Anthony Miller, Assistant Director
Tad David, Department Counsel (via phone)
LaTonya Bryant-Parker, Department Staff
Jasmin Richardson, Department Staff
Crystal Grant, Department Staff

Mr. Chairman we have a quorum and the Board may proceed to address the matters on the agenda.

The Chair questioned whether all Board members received their packets. There was a positive response from the Board members.

2. Action on the Minutes

A. December 2, 2010

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meeting held on December 2, 2010.

MOTION: Ms. Gail Thomas-Dewitt moved to adopt the minutes of the meeting. Mr. Ken Jones seconded the motion, which passed unanimously.

3. Disciplinary Proceedings

A. Settlement Stipulation for Consent Order and Proposed Consent Order

(1) Beckman-Williamson, LLC d/b/a Atlas Crematory: Case No. 108548-10-FC, SR1-598159837

Mr. Tad David stated that the Department conducted an investigation of Beckman-Williamson, LLC d/b/a Atlas Crematory (License No. F041425) in response to a complaint filed with the Division of Funeral, Cemetery and Consumer Services. The Department conducted an investigation of the Respondent's activities in the death care industry. This matter is cross-referenced with William Pickens, DFS Case No.: 108544-10-FC.

Respondent appears to have violated Sections 497.152(1)(a), 497.152(4)(h) and 497.606(9)(j)3, Florida Statutes by failing to satisfy inspection criteria of the Florida Department of Environmental Protection. Subsequent to the alleged violations, Respondent, at great expense, repaired and cured the defects of the retorts that were the source of the violations. The Respondent has elected to enter into a settlement stipulation and waive its right to a hearing in this matter. The terms of the Settlement Stipulation for Consent Order require the Respondent to pay \$2,500.00 as an administrative fine.

The stipulated penalty is within the disciplinary guidelines, pursuant to Chapter 69K-30, Florida Administrative Code, and the Division is in agreement with the terms of the Settlement Stipulation for Consent Order.

The terms of the Settlement Stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

Ms. Tracy Huggins questioned whether the case was presented to the Probable Cause Panel.

Mr. David stated that the case had not been presented to the Panel as the Order contains a Waiver of Right to the Determination of Probable Cause as required by law.

The Chair questioned whether Counsel for the Respondent had any remarks.

Mr. Kevin Bailey, Counsel for the Respondent stated that Mr. David had accurately and professionally represented the matter and stated he would defer to Mr. David's presentation.

MOTION: Mr. Jones moved to accept the Settlement Stipulation and adopt the Consent Order. Ms. Nancy Hubbell seconded the motion, which passed with two dissenting votes.

(2) Pickens, William: Case No. 108544-10-FC, SRI-598159837

Mr. David stated that the Department conducted an investigation of William Pickens (License No. F042824) in response to a complaint filed with the Division of Funeral, Cemetery and Consumer Services. The Department conducted an investigation of the Respondent's activities in the death care industry. This matter is cross-referenced with Beckman-Williamson, LLC d/b/a Atlas Crematory, DFS Case No. 108548-10-FC.

Respondent appears to have violated Sections 497.152(1)(a), 497.152(4)(h) and 497.606(9)(j)3, Florida Statutes because he is the Funeral Director in Charge of Atlas Crematory, a licensee that failed to satisfy inspection criteria of the Florida Department of Environmental Protection. Subsequent to the alleged violations, Respondent's company, at great expense, repaired and cured the defects of the retorts that were the source of the violations. The Respondent has elected to enter into a Settlement Stipulation and waive his right to a hearing in this matter. The terms of the Settlement Stipulation for Consent Order require the Respondent to pay \$2,500.00 as an administrative fine.

The stipulated penalty is within the disciplinary guidelines, pursuant to Chapter 69K-30, Florida Administrative Code, and the Division is in agreement with the terms of the Settlement Stipulation for Consent Order.

The terms of the Settlement Stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

Mr. Bailey held the same position on this case as with the previously presented companion case.

MOTION: Mr. Jones moved to accept the Settlement Stipulation and adopt the Consent Order. Ms. Hubbell seconded the motion, which passed with two dissenting votes.

4. Application(s) for Preneed Sales Agent

A. Informational Item (Licenses Issued without Conditions) – Addendum A

The application(s) presented are clean and have been approved by the Division. This item is informational only and does not require Board action.

5. Application(s) for Preneed Main License

A. Recommended for Approval with Conditions

(1) New Horizon Funeral Chapel and Cremation, Inc. (St. Cloud)

The Department received the application on November 5, 2010 and deficiencies were noted on the application. A deficiency letter was sent to the Applicant on November 29, 2010 and the Applicant resolved all deficiencies as of December 13, 2010. A completed background check of all officers revealed no criminal history. Applicant will be trusting at 100% and will utilize the pre-approved IFDF Master Trust Agreement and Pre-arranged Funeral Agreement. The Applicant obtained a funeral establishment license, approved by the Board on September 2, 2009.

The Applicant's financial statements as of November 30, 2010 reflect the following:

Acquired Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	29,010

Documentation establishes that Michael (a principal of Applicant herein), and spouse, Laura Morales, was discharged from Ch. 7 Bankruptcy on September 30, 2004, by the Federal District Court, Middle District of Florida. It was a personal bankruptcy action and discharge. Applicant provided a notarized statement disclosing the bankruptcy as supporting documentation.

In view of the bankruptcy, the FCCS Division requested additional materials from Applicant:

- 1) Court documentation evidencing that the bankruptcy was discharged.
- 2) A personal financial statement for officer, Michael Morales.

- 3) Two letters of reference from trade suppliers and a current bank statement for New Horizon Funeral Home & Crematory as of November 30, 2010.

Applicant has provided all requested information and material. The letters of reference are favorable. Therefore, recommendation is for approval of the application with conditions based upon the attached Stipulation for Licensure where Applicant agrees to 100% trusting and 12-months (1 year) of probation.

Col. Don Stiegman questioned whether Ms. Hubbell had reviewed the financials and whether they are acceptable.

Ms. Hubbell stated that she had reviewed the financials and would go along with the Division's recommendation.

MOTION: Ms. Thomas-Dewitt moved to approve the application with conditions based upon the attached Stipulation for Licensure where Applicant agrees to 100% trusting and 12-months (1 year) of probation. Ms. Jean Anderson seconded the motion, which passed unanimously.

(2) Rolling Oaks Cemetery, Inc. (Port St Lucie)

The Department received the application on November 10, 2010 and deficiencies were noted on the application. A deficiency letter was sent to the Applicant on November 30, 2010 and all deficiencies were resolved as of December 1, 2010. A completed background check of all officers revealed no criminal history. Applicant will sell trust funded preneed through Funeral Services Inc (FSI) and will use the pre-approved First Florida Trust Agreement (BB&T) and pre-arranged funeral agreement.

Rolling Oaks Cemetery previously held a preneed license, but the license lapsed due to non-renewal. In 2008-09 the cemetery defaulted on its promissory note to a lender, and the lender acquired the cemetery. On August 5, 2009 the Board approved an application for a change of control of the cemetery license from Rolling Oaks Cemetery to the lender, First Peoples Bank d/b/a Rolling Oaks Cemetery (F039732). A change of name was filed with the Division as of November 15, 2010 changing the name of the qualifying cemetery license from First Peoples Bank d/b/a Rolling Oaks Cemetery to Rolling Oaks Cemetery, Inc.

The Applicant's financial statements as of December 31, 2009 reflect the following:

Acquired Preneed Contracts	= \$ 382,734
Required Net Worth	= \$ 40,000
Reported Net Worth	= \$ 1,323,941

Recommendation is for approval of the application without conditions.

MOTION: Mr. Powell Helm moved to approve the application. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

6. Application(s) for Preneed Branch License

- A. Recommended for Approval with Conditions – Addendum B

The Division recommends approval of the application for Carriage Florida Holdings, Inc.

MOTION: Ms. Thomas-Dewitt moved to approve the application. Mr. Jones seconded the motion, which passed unanimously.

The Division recommends approval of the application for Osceola Memory Gardens, Inc with the condition stated.

MOTION: Mr. Helm moved to approve the application with the condition that the funeral establishment application for Osceola Memory Gardens II Inc d/b/a Osceola Memory Gardens Cemetery, Funeral Home & Crematory is approved at this meeting. Mr. Lew Hall seconded the motion, which passed unanimously.

7. **Continuing Education Course Approval(s)**
 - A. *Recommended for Approval without Conditions – Addendum C*
 - (1) *Batesville Management Services #86*
 - (2) *Independent Funeral Directors of Florida Inc #135*
 - (3) *Matthews Cremation Division #41*
 - (4) *National Funeral Directors Association #136*
 - (5) *SCI Management - Dignity University #99*

These courses have been approved by the Continuing Education Committee and are recommended for approval of the course(s) for the number of hours indicated in the materials before you.

The Chair stated that the Continuing Education Committee consists of Chairman Tracy Huggins, Justin Baxley, Lew Hall and Jill Peeples.

Mr. Shropshire added that Col. Stiegman was recently added to the Committee.

The Chair questioned whether Ms. Huggins had any comments.

Ms. Huggins stated that all the courses submitted were reviewed and approved.

Mr. Helm questioned how he could obtain information on one of the courses submitted.

Ms. Huggins stated that Mr. Helm could either contact Ms. Bryant-Parker or the company. Ms. Huggins questioned the type information Mr. Helm was inquiring about.

Mr. Helm stated that he would like to read the information submitted for “*Who Killed the Funeral?*”

The Chair stated that the course is offered by the National Funeral Directors Association and suggested that Mr. Helm contact their representative for the information.

Mr. Shropshire stated that Mr. Helm could contact Ms. Bryant-Parker to have the materials emailed to him.

MOTION: Mr. Helm moved to approve the application(s). Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

8. **Application(s) for Florida Laws and Rules Examination**
 - A. *Recommended for Approval without Conditions – Addendum D*
 - (1) *Direct Disposer*
 - (a) *Antonucci, Robert A*
 - (2) *Funeral Director and Embalmer – by Internship*
 - (a) *Cornwall, Michelle*
 - (b) *Craig, Janine M*

- (c) *Medina, Alan M*
- (d) *Netzley, Nina M*
- (e) *Russell, Benoit N*

The Division recommends approval of the application(s).

MOTION: Mr. Hall moved to approve the application(s). Ms. Huggins seconded the motion, which passed unanimously.

- 9. **Application(s) for Internship**
 - A. *Recommended for Approval without Conditions – Addendum E*
 - (1) *Funeral Director and Embalmer*
 - (a) *Gibson, Clarence*
 - (b) *Hough, Johnny M*

The Division recommends approval of the application(s).

MOTION: Ms. Anderson moved to approve the application(s). Ms. Huggins seconded the motion, which passed unanimously.

- 10. **Application(s) for Embalmer Apprentice**
 - A. *Recommended for Approval without Conditions – Addendum F*
 - (1) *Helms, Ronnie J*

The Division recommends approval of the application(s).

MOTION: Ms. Huggins moved to approve the application(s). Mr. Hall seconded the motion, which passed unanimously.

- 11. **Registration(s) as a Training Agency**
 - A. *Recommended for Approval without Conditions – Addendum G*
 - (1) *Funeral Directing*
 - (a) *Lewis-Smith Mortuary (Jacksonville)*

The Division recommends approval of the application(s).

MOTION: Ms. Thomas-Dewitt moved to approve the application(s). Mr. Helm seconded the motion, which passed unanimously.

- 12. **Consumer Protection Trust Fund Claims**
 - A. *Recommended for Approval without Conditions – Addendum H*

The Division recommends approval of the claim(s).

MOTION: Mr. Hall moved to approve the claim(s). Ms. Huggins seconded the motion, which passed unanimously.

- 13. **Application(s) for Funeral Establishment**
 - A. *Recommended for Approval with Conditions*

(1) *Baldwin Brothers Memorial Care Services Inc d/b/a Baldwin Brothers Cremation Society (New Smyrna Beach)*

An application for a Funeral Establishment was received on November 23, 2010. The application was incomplete when submitted. All deficient items were returned on December 21, 2010. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be James Baldwin (F043616). The Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of the Division staff.

MOTION: Mr. Jones moved to approve the application subject to the establishment passing an on-site inspection by a member of the Division staff. Mr. Hall seconded the motion, which passed unanimously.

(2) *Darens Funeral Home Inc d/b/a International Funeral Home (Clearwater)*

An application for a Funeral Establishment was received on December 1, 2010. The application was incomplete when submitted. All deficient items were returned on December 21, 2010. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Daren Sternad (F042271).

The Division is recommending approval subject to the condition(s) as follows:

- (1) That the establishment passes an on-site inspection by a member of the Division staff.
- (2) That the closing occur within 60 days of the date of this Board meeting.
- (3) Receipt by the Division within 75 days of this Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that closing has occurred.
- (4) Receipt by the Division within 75 days of this Board meeting, of a copy of the Bill of Sale, executed by all parties, and any and all amendments thereto, also fully executed.

MOTION: Mr. Jones moved to approve the application subject to the conditions recommended by the Division. Ms. Huggins seconded the motion, which passed unanimously.

(3) *DeGusipe LLC d/b/a DeGusipe Funeral Home & Crematory (Sanford)*

An application for a Funeral Establishment was received on November 9, 2010. The application was incomplete when submitted. All deficient items were returned on December 22, 2010. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Rick Perry (F044158). The Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of the Division staff.

MOTION: Mr. Helm moved to approve the application subject to the establishment passing an on-site inspection by a member of the Division staff. Ms. Anderson seconded the motion, which passed unanimously.

(4) *Joseph Innocent Pierre d/b/a Reflexions Funeral Home (Miami)*

An application for a Funeral Establishment was received on November 5, 2010. The application was incomplete when submitted. All deficient items were returned on December 6, 2010. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Dennis McArthur (F043737). The establishment passed the inspection on December 20, 2010.

Ms. Jasmin Richardson stated that the application was submitted as a sole proprietor doing business as Reflexions Funeral Home. Subsequently the Applicant did change this and has registered as a corporation: Reflexions

Funeral Home, Inc. There is still only one owner and the only difference is the change in the name from Joseph Innocent Pierre d/b/a Reflexions Funeral Home to Reflexions Funeral Home, Inc d/b/a Reflexions Funeral Home. Ms. Richardson added that the Applicant has shown proof of fictitious name. The Division is recommending approval of the application.

MOTION: Mr. Helm moved to approve the application. Ms. Hubbell seconded the motion, which passed unanimously.

(5) *Osceola Memory Gardens II Inc d/b/a Osceola Memory Gardens Cemetery, Funeral Home & Crematory (Kissimmee)*

An application for a Funeral Establishment was received on November 1, 2010. The application was incomplete when submitted. All deficient items were returned on December 14, 2010. The fingerprint cards for all principals were returned and one was returned with criminal history. The Funeral Director in Charge will be Vernon Dorsey (F043126).

One of the application's officers, Robert Russell, has a criminal history. In May, 2010 he pled no contest to Boating under the Influence. He was sentenced to six months probation and a fine of \$545, which have been paid.

The Division does not believe that the Applicant would pose an unreasonable risk to the public if licensed.

The Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of the Division staff.

MOTION: Mr. Hall moved to approve the application subject to the establishment passing an on-site inspection by a member of the Division staff. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

14. Request(s) to Extend Internship
A. *Recommended for Approval without Conditions*
(1) *Williams, Tysnie*

Ms. Williams began her internship on April 2, 2010. Due to her pregnancy, Ms. Williams has been placed on bed rest as of September 27, 2010. She has served 5 months and 25 days of her Concurrent Internship. Factoring in her projected due date and approximately six weeks of maternity, she will have missed six months of the internship. The Division is recommending approval of the internship extension for a period of six months, with the internship ending on October 2, 2011.

MOTION: Ms. Anderson moved to approve the request. Ms. Huggins seconded the motion, which passed unanimously.

15. Application(s) for Broker of Burial Rights
A. *Recommended for Approval without Conditions*
(1) *Isidro Contreras (Miami)*

The application was received on October 6, 2010 and deficiencies were noted on the application. A deficiency letter was sent to the Applicant on October 12, 2010 and all deficiencies were resolved as of December 9, 2010. The Department completed a background check of all officers which revealed no criminal history. The Division recommends approval of the application.

MOTION: Ms. Thomas-Dewitt moved to approve the application. Mr. Hall seconded the motion, which passed unanimously.

16. Application(s) for Monument Establishment Retailer License

A. Recommended for Approval without Conditions

(1) Broward Monument Corporation (Ft Lauderdale)

The application was received on August 13, 2010 and deficiencies were noted. A deficiency letter was sent on August 17, 2010 and the Applicant resolved all deficiencies by December 20, 2010. The Department completed a background check of Applicant's officers which revealed no criminal history. This application is being filed due to a change in ownership from PJK Enterprises Inc d/b/a Broward Monument (F037817) to Broward Monument Corporation. Eduardo J. Mata is the current officer and sole owner of Broward Monument Corporation.

For informational purposes only, it should also be noted that upon request by the Division, the Applicant did provide a response to Section 9(b); questions 1-5 of the application (please refer to the attached email for Applicant's responses).

The Division recommends approval of the application without conditions.

Mr. Helm questioned whether the Applicant or a representative was present.

There was a negative response.

MOTION: Mr. Helm moved to approve the application. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

(2) Ends of Justice LLC (Crawfordville)

The application was received on November 17, 2010 and deficiencies were noted. A deficiency letter was sent on December 3, 2010 and the Applicant resolved all deficiencies by December 10, 2010. The Department completed a background check of all officers which revealed no criminal history.

The Division recommends approval of the application without conditions.

MOTION: Ms. Thomas-Dewitt moved to approve the application. Mr. Helm seconded the motion, which passed unanimously.

17. Contract(s) or Other Related Forms

A. Recommended for Approval with Conditions

(1) Monument Establishment Retail Sales Agreement

(a) Broward Monument Corporation (Ft Lauderdale)

Staff recommends approval of the agreement.

Mr. Helm questioned whether the font size was correct.

Mr. Shropshire stated that it was correct.

MOTION: Mr. Jones moved to approve the agreement. Mr. Hall seconded the motion, which passed unanimously.

(b) Ends of Justice LLC (Crawfordville)

Staff recommends approval of the agreement.

MOTION: Mr. Helm moved to approve the agreement. Ms. Huggins seconded the motion, which passed unanimously.

*(2) Non-Guaranteed Preneed Insurance-Funded Contract
(a) Columbian Life Insurance Company (Chicago, IL)*

The Applicant submitted an Insurance-Funded Preneed Non-Guaranteed Statement of Funeral Goods and Services Selected (1561NG-FL) to be sold solely through preneed licensed establishments. Columbian Life Insurance Company received approval for its insurance products from the Florida Office of Insurance Regulation on March 30, 1989.

The Division recommends approval with the condition that the Department receives within 60 days two full-sized print-ready copies of the agreement.

MOTION: Mr. Hall moved to approve the agreement with the condition that the Department receives two full-sized print-ready copies within 60 days of this meeting. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

18. Executive Director's Report

Mr. Shropshire stated that prior to discussion of the Rulemaking issues, there should be discussion re: Governor Scott's Executive Order to suspend rulemaking. Mr. Shropshire requested that Ms. Dudley explain the Executive Order to the Board.

Ms. Allison Dudley stated that the Executive Order has suspended rulemaking for Agencies under the direction of the Governor. This Board and Agency are not under the direction of the Governor but the Executive Order asks the Agencies that are not under the direction of the Governor still follow the Executive Order and suspend all rulemaking. The Executive Order provides for a new avenue for rulemaking in that a new office was created to review these rules. It is requested that all rules be sent to the Governor's Office for review and approval prior to proceeding with rulemaking. The Board would have to decide whether to go forward with sending the rules to the Governor's Office first for approval or proceed with rulemaking despite the request and the Executive Order.

Mr. Helm questioned Ms. Dudley's suggestion.

Ms. Dudley recommended that the Board send the rules to the Governor's Office first for approval.

Mr. Helm questioned how the Division feels about this.

Mr. Shropshire stated the Division feels the same as Ms. Dudley. Mr. Shropshire added that he is currently waiting for some guidance from the Department's new CFO and Legal staff, but fully expect and the preliminary

indications are that the Department of Financial Services will comply with the Governor's Order. Mr. Shropshire concurred with Ms. Dudley that the Board should seek to procedurally comply with that Order. There will be some significant explanation of procedures and processes within the next month, so the Division would probably have more information for the Board at the next meeting.

Mr. Helm questioned whether the Board is being instructed not to Rule on the items presented today.

Mr. Shropshire answered, "No, not at all." Mr. Shropshire suggested that the Board move forward with consideration of them. Hopefully the Board would approve the Division's recommendation so that the Division would be in a position to move forward as soon as procedurally we see exactly what we need to do.

Ms. Dudley stated when she said "suspend all rulemaking" she was referring to procedural rulemaking where the rules are noticed in the Florida Administrative Weekly, etc. The Board has to go forward and approve language that would be ready to submit to the Governor's new office for review. This is why the Board should go forward with what we are planning to do today, but there is an extra step before the procedure necessary to approve these rules, and that is getting approval from the Governor.

Mr. Shropshire added that the Board's approval today would not put the Rules in effect. It is just approval to the Division to move forward with the formal rulemaking process under ch. 120, F.S., which the Division cannot start until the Board approves the rules.

Mr. Helm questioned whether the Board has already approved these Rules.

Mr. Shropshire stated that the first Rule does not fall into the category. This is a mandatory Rulemaking item that JAPC pointed out to the Division that we needed to get started on immediately. There is a large set of Rules that the Board previously but then in November, the legislature in special session passed some additional requirements for rulemaking that after discussion with Ms. Dudley, it was decided that those Rules had to be brought back to the Board for additional approval.

A. Proposed Rule 69K-1.007, Disclosure of Criminal Record at License Renewal

SB1152, enacted in the 2010 regular session of the Florida Legislature, at Bill sections 5 and 6, amended Ch. 497 to require the disclosure of certain criminal records at renewal of licenses, effective July 1, 2011.

The specific changes made by SB1152, s.6, are as follows:

Section 6. Paragraphs (a), (b) and (g) of subsection (10) of s. 497.142, F.S., are amended to read:

497.142 Licensing, fingerprinting and criminal background checks.--

(10)(a) When applying for any license under this chapter, every applicant ~~must shall be required to~~ disclose the applicant's criminal records in accordance with this subsection. When applying for renewal of any license under this chapter, every licensee must disclose only those criminal offenses required to be disclosed under this subsection since the most recent renewal of her or his license or, if the license has not been renewed, since the licensee's initial application.

(b) The criminal record required to be disclosed shall be any crime listed in paragraph (c) ~~for of~~ which the person or entity required to make disclosure has been convicted or to which that person or entity entered a plea ~~in the nature of guilty or nolo contendere no contest.~~ Disclosure is ~~shall be required pursuant to this subsection~~ regardless of whether adjudication is ~~was~~ entered or withheld by the court ~~in which the case was prosecuted.~~

(g) The licensing authority shall ~~may~~ adopt rules specifying forms and procedures to be used ~~utilized~~ by persons required to disclose criminal records under this subsection. The rules may require a licensee to disclose only those criminal records that have not previously been disclosed under this subsection at the renewal of her or

his license or, if the license has not been renewed, at the initial issuance of the license. The licensing authority may conduct investigation and further inquiry of any person regarding any criminal record disclosed pursuant to this section.

The FCCS Division attaches hereto a proposed new Rule 69K-1.007, and a proposed form DFS-N1-2043, for the implementation of the new requirement.

The Division of Funeral, Cemetery, and Consumer Services recommends that:

- 1) The Board approves the attached new Rule and form, and authorize the Division to move forward with Rulemaking to adopt the new Rule and form, and in relation thereto authorizing the Division to: publish notice of rule development pursuant to s. 120.54(2); publish notice of intent to adopt the Rule and form pursuant to s. 120.54(3)(a)1; to prepare and publish statements of estimated regulatory costs pursuant to s. 120.54(3)(b) and 120.541; and to file the Rule and forms for adoption pursuant to s. 120.54(3)(e)6, F.S.
- 2) That the Board finds that the new Rule and form:
 - a. Will not have an impact on small business;
 - b. Is not likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the Rule.

MOTION: Mr. Hall moved to accept the Division's recommendations. The motion was duly seconded by Ms. Anderson. The Board thereupon voted unanimously in favor of the motion.

B. Proposed Rule 69K-23.003, Renewal of Direct Disposer Licenses

The staff of the Joint Administrative Procedures Committee has noted to the FCCS Division that s. 497.603, Florida Statutes, requires that there be a rule specifying renewal procedures and forms for direct disposer licenses. Existing Rule 17.0030 specifies renewal fees for direct disposers, but there is no rule specifically addressing renewal procedures.

The FCCS Division attaches hereto a proposed new Rule 69K-23.003, which addresses procedures, schedule, and forms, for renewal of direct disposers. The proposed Rule codifies the procedures and form that the Division has been using for over 10 years.

The Division of Funeral, Cemetery, and Consumer Services recommends that:

- 1) The Board approve the attached new Rule, and authorize the Division to move forward with Rulemaking to effectuate the new Rule, and authorize the Division to: publish notice of rule development pursuant to s. 120.54(2); publish notice of intent to adopt the Rule pursuant to s. 120.54(3)(a)1; to prepare and publish statements of estimated regulatory costs pursuant to s. 120.54(3)(b) and 120.541; and to file the Rule for adoption pursuant to s. 120.54(3)(e)6, Florida Statutes.
- 2) That the Board finds that the new Rule:
 - a. Will not have an impact on small business;
 - b. Is not likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the Rule.

MOTION: Mr. Jones moved to accept the Division's recommendations. The motion was duly seconded by Mr. Hall. The Board thereupon voted unanimously in favor of the motion.

C. Re-presentation of Rule 69K-18.004 under Revised Rulemaking Statute

The attached amendment to Rule 69K-18.004 was approved by the Board at its October 7, 2010 meeting.

However, in November 2010 the Florida Legislature, in Special Session, enacted HB 1565, which requires additional findings by the Board prior to initiation of Rulemaking. As most pertinent here, the new law requires a finding as to whether the Rule is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the Rule. Upon the advice of Board Counsel, Allison Dudley, this proposed Rule is being re-presented to the Board for re-approval under the revised Rulemaking statute.

It is the opinion of the FCCS Division that adoption and implementation of the proposed amended Rule 18.004 would not directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the Rule.

The Division of Funeral, Cemetery, and Consumer Services recommends that:

- 1) The Board approve the attached amended Rule 69K-18-004, and authorize the Division to move forward with Rulemaking to effectuate the amended Rule, and authorizing the Division to: publish notice of rule development pursuant to s. 120.54(2); publish notice of intent to adopt the Rule pursuant to s. 120.54(3)(a)1; to prepare and publish statements of estimated regulatory costs pursuant to s. 120.54(3)(b) and 120.541; and to file the rules and forms for adoption pursuant to s. 120.54(3)(e)6, Florida Statutes.
- 2) That the Board finds that the amended Rule 69K-18-004:
 - a. Will not have an impact on small business; and
 - b. Is not likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the Rule.

MOTION: Mr. Helm moved to accept the Division's recommendations. The motion was duly seconded by Ms. Huggins. The Board thereupon voted unanimously in favor of the motion.

D. Re-presentation of Rules under Revised Rulemaking Statute

In November 2010 the Florida Legislature, in Special Session, enacted HB 1565 affecting Rulemaking procedures. The new law requires additional findings by the Board prior to initiation of Rulemaking. As most pertinent here, the new law requires a finding as to whether proposed rules are likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the Rules.

The new law is retro-active to all Rules not actually adopted as of November 17, 2010. Upon the advice of Board Counsel, Allison Dudley, proposed rules previously approved by the Board but not yet adopted under ch. 120, Florida Statutes, Rulemaking procedures, are being re-presented to the Board for re-approval under the revised Rulemaking statute.

Attached hereto is a list of rules previously approved by the Board, being herewith resubmitted to the Board for re-approval under the revised criteria of the new Rulemaking law.

The materials being provided to all Board members for the January 6, 2011 Board meeting will include the full text of all rules on the above referenced list. The rules read as previously approved by the Board.

It is the opinion of the FCCS Division that adoption and implementation of these proposed new and amended rules and forms would not directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the Rule.

The Division of Funeral, Cemetery, and Consumer Services recommends:

- 1) That the Board approve the attached new and amended Rules and forms, and authorize the Division to move forward with Rulemaking to effectuate the new and amended Rules and forms, expressly authorizing the Division to: publish notice of Rule development pursuant to s. 120.54(2); publish notice of intent to adopt the rules and forms pursuant to s. 120.54(3)(a)1; to prepare and publish statements of estimated regulatory costs pursuant to s. 120.54(3)(b) and 120.541; and to file the Rules and forms for adoption pursuant to s. 120.54(3)(e)6, Florida Statutes.
- 2) That the Board finds that the new and amended Rules and forms in the attached proposed new and amended rules and forms:
 - a. Will not have an impact on small business;
 - b. Are not likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the Rule.

MOTION: Mr. Jones moved to accept the Division's recommendations. The motion was duly seconded by Mr. Helm. The Board thereupon voted unanimously in favor of the motion.

Mr. Shropshire noted that the Preneed Financial Statements Requirements Committee is scheduled to meet in February following the February Board meeting.

19. Adjournment

The meeting was adjourned at 10:45 a.m.