

BOARD MEETING

MINUTES

April 13, 2016

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on April 13, 2016, at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: Valdus Lockhart, President; Kelly Byrd, Vice President; Charles Graves, Secretary; Elizabeth Williams-Smith, Craig Olive, Matt Staton and Stephen Aldridge via teleconference.

Also Present: Christina Cress, General Counsel; Staff members Brett Lisenbee, Darrell Cagle, and Lyn Cochrane; Catherine Lee with Nichols, Choi & Lee, Fred Jordan with Miracles in Sight; Dan Funchess, Funeral Service Licensee; Michael Rulison with Funeral Consumers Alliance of the Triangle; Paul Harris with Regulatory Services; Mary Rose Browder, corporate counsel for Neptune Society, Tim Nicholson, Delores Ramos with Neptune Society and David Liggett local counsel for Neptune Society.

Mr. Lockhart called the meeting to order at 9:01 a.m. and read the Ethics Statement. No one recused themselves at this time.

Mr. Lockhart led the Pledge of Allegiance and Mr. Graves had the invocation.

Mr. Lockhart read a letter of appreciation from former Board Member Joe Clay.

Mr. Lockhart then welcomed the guests and asked them to introduce themselves. Mr. Lockhart reminded everyone to turn off their cell phone ringers.

Mr. Graves stated the minutes had been previously mailed and made the motion to approve the minutes of the March 9, 2016, meeting. Mr. Olive seconded and the motion carried.

Preneed Committee: Mr. Byrd stated a majority of the Committee met via teleconference on April 8 to discuss a request from a preneed establishment to waive their surety bond. Supporting documentation provided by the establishment does not demonstrate solvency to the satisfaction of the Committee. Committee recommended that this request be denied.

The Committee reviewed a request for a revocation of a preneed contract written by a North Carolina establishment for the benefit of a local consumer who has since moved out of state. The consumer is requesting the contract be revoked for the purpose of transfer to New York. Committee recommends approval of the request.

The Committee reviewed Preneed Recovery Fund Claim Number P15-018 in the amount of \$5348.69 and P15-016 in the amount of \$9512.50. Committee recommends approval of both claims.

Mr. Byrd made the motion to accept the recommendations of the committee for all matters. Mr. Graves seconded and the motion carried.

Disciplinary Committee: Mr. Graves presented the following case numbers: Dismissal for M07-004 and C15-030; Notice of Hearing for C15-031; Letters of Caution for C15-037, M16-015, and M16-016; Other Matters with various recommendations for M15-048, M16-010 and concurrent case C16-002, M16-012, M16-014. Mr. Graves made the motion to approve the Disciplinary Committee's recommendations as to all matters. Mr. Byrd seconded and the motion carried.

Traineeship: Mr. Lockhart stated the Committee met prior to the Board meeting with two trainees. Trainee #1 missed two reports. Committee recommends loss of one month credit and may resume traineeship on May 1, 2016. Trainee #2 did not respond to the letter. Committee recommends a 60-day probation and if reports are not on time, trainee will be terminated. Trainee may resume traineeship on May 1, 2016.

There has been a request for an out of state trainee to complete their ten embalming cases. Committee recommends the Board delegate to the Traineeship committee, that upon further information provided by counsel, the authority to approve or deny the request.

Mr. Olive made the motion to approve the Traineeship Committee recommendations. Mr. Staton seconded and the motion carried.

Continuing Education Committee: Ms. Smith stated the committee met via teleconference on April 8, 2016, to review several matters.

An appeal from a Continuing Education course sponsor whose application for a home study course had been denied. The provider required the class attendee pass a quiz by 70% following a home study. Committee recommendation is to approve the appeal if the provider will require a 75% pass rate consistent with the national exam requirements.

The Committee reviewed an application for a CE course involving insurance and ethics. 1.5 hours of the proposed insurance course syllabus related to preneed funeral contracts. Recommendation is to approve the ethics course for 5 hours and the insurance course for the 1.5 hours that pertains to the preneed funeral contracts.

The Committee reviewed an appeal from a CE course sponsor whose application for CE course approval had been denied for failing to meet the requirements laid out in the Board's laws and rules. The material is brand-specific and focuses more on sales tactics and marketing for that particular brand; it is not sufficiently related to the practice of funeral service. Recommendation is to deny the appeal.

The Committee reviewed an application for a CE course involving restorative arts. The course is not going to be taught by a funeral services licensee, but by a professional makeup artist. The recommendation is to deny the course application.

Mr. Byrd made the motion to approve the recommendations for all matters. Mr. Graves seconded and the motion carried.

Laws & Rules Committee: Mr. Lockhart stated the Committee met on March 30, 2016, via teleconference to review the Board's proposed declaratory ruling in the matter of D16-001. The Board then reviewed the ruling.

The committee recommends waiting until the long session of the General Assembly convenes before attempting to reintroduce HB-296.

Mr. Byrd made the motion to accept the Committee recommendations and Mr. Staton seconded. The motion carried.

At this time Mr. Graves made the motion to go into closed session to discuss a personnel matter and a matter of attorney-client privilege. Mr. Olive seconded and the motion carried.

Upon proper motion the meeting returned to open session.

Finance & Personnel Committee: Mr. Aldridge stated the committee met April 10, 2016. The report was presented and Mr. Byrd made the motion to accept it. Mr. Graves seconded and the motion carried.

Mr. Aldridge stated that in closed session the Board had discussed various proposed changes to the Board staff's current organizational structure. Mr. Aldridge then stated that the Finance & Personnel Committee is recommending a budget amendment for Fiscal Year 2016. Mr. Graves made a motion to accept the budget amendment and Mr. Olive seconded. The motion carried.

Also discussed were the Committee's recommendations to hire Valencia Brown from part time to full time; hire an in-house Information Technology person; hire a legal assistant; and hire an Office Manager. The Board also recommends that Lyn Cochrane begin cross training Sharon Devine on her duties.

Mr. Graves made the motion to accept the recommendations. Mr. Staton seconded and the motion carried.

Acting Interim Executive Director's Report: Board staff will continue to avoid any and all ex parte conversations with Board members regarding any pending disciplinary matters.

Mark Blake has been appointed to fill the NCFDA vacancy left by the resignation of Mr. Stainback. Mr. Blake apologizes for not being present today but had a prior commitment that could not be changed.

Ms. Cress thanked the entire staff for their help this past month, specifically Brett Lisenbee and Lyn Cochrane.

Ms. Cress also provided the following information:

A final reminder of the Statement of Economic interest filing requirements that are due April 15.

Staff is now using TimeSheets, an online program, to keep track of their time. Inspector Cagle has now completed his training and is now working in the field. Continuing Education programs have been delegated to Beth Anne Prindiville for review. The public member Board vacancy will probably not be appointed until the long session of the General Assembly commences. Ms. Cress and inspectors will represent the Board at the NCFDA conference in May and at the FD & MA of NC, Inc., conference in June. Mr. Graves will present the Board report at the NCFDA conference. A thank you letter will be signed by Mr. Lockhart and sent to Mr. Clay and Mr. Combs along with a token of appreciation after this Board meeting.

Ms. Cress has registered as the ethics and legislative liaison and Mr. Lisenbee has registered as the other legislative liaison. Ms. Cress and Mr. Lisenbee attended the Administrative Procedures Oversight Committee meeting last week. The bill proposed by that Committee pertaining to the elimination of certain licensing Boards has been tabled at this time.

The annual report required by statute, 93B, is due at the end of the month. The 2015 audit was done two weeks ago and should be ready for presentation at the May meeting. In the interim, it will be reviewed and approved by the Finance & Personnel Committee since it is to be submitted as part of the 93B reports.

Ms. Cress thanked Mr. Olive for his signature on a letter to Senator Andy Wells and the other APO committee members in response to some statements seen on Sen. Wells' website.

Ms. Cress is speaking at Fayetteville Technical Community College on April 25 regarding funeral law.

The Board's website is being edited in-house for content which will be more cost effective.

Mr. Lisenbee and Ms. Prindiville attended the March 17 Wake County Vital Records Workshop. Since there is limited Board staff at this time, Board staff may need to reduce their involvement in external agency/other organizations.

Staff has been working with vendors to better utilize space for additional work stations.

Mr. Lockhart and Ms. Cress attended the Second Annual Best Practices Seminar for Occupational Licensing Agencies at the North Carolina State Bar.

The IT presentation scheduled for today has been rescheduled for the May meeting. The automatic answering service has been changed back to an active answered telephone. There are three people now answering calls and this is working well.

The US Department of Commerce 2016 Annual Survey of Public Employment & Payroll has been submitted and the North Carolina report is due this month. As required by law the Board has scheduled CE classes on June 21 and December 1. These are being advertised on the Board's website and in the E-Newsletter.

Ms. Cress will be out of the office Friday, April 22 but Ms. Lee will be available during that time.

Ten of the 36 sets of cremains in the Board's office have been moved out. Mr. Lockhart and Board staff are in the process of finding space to move them until they are claimed. The Board staff's policy is not to accept any other cremains under any circumstances.

The Inspector sheets are in a new format prepared by Mr. Lisenbee.

Ms. Cress presented the following information:

There were 20 funeral establishments inspected, 20 preneed examinations conducted, 3 crematories inspectors, one chapel inspection and one unaffiliated practitioner inspected.

New Establishments: Union Funeral Home, Inc., Clarkton; Covenant Funeral Home, Inc., Hope Mills; Davis Funeral Home, Wilmington; Pierce-Jefferson Funeral Service, Kernersville.

New Chapel: Pierce-Jefferson Funeral Service, Kernersville.

New Funeral Service Licensees: Thomas Renaud, Phyllicia Magyar, Alea Armstrong.

New Funeral Director Licensee: Carlos Callands.

New Trainees: Joseph Barron, Joyce Best, Robert Curtis, Ivan Davis, Natalia Felix, Christopher Halsey, Colleen Heck, Johnny Jernigan, Jr., Victor Johnson, Hannah Kiger, Deundra Mayo, Stacey Neave, Richard Nixon, Zachary Phillips, James Smith, Noland Solis, Lewis Strickland, Laura Tart, James Warren, II, Ryann Welch.

Ms. Cress asked Ms. Cochrane to present the preneed report.

There are 661 licensed preneed funeral establishments and 1,677 individuals licensed to sell preneed as of April 6, 2016. There are 177,226 active contracts as of April 7, 2016, and 1,074 Certificates of Performance have been processed since the March meeting.

Mr. Lockhart thanked the staff for their work.

At this time Mr. Carl Barnekow and Attorney James West entered the meeting.

Attorney's Report: Ms. Cress stated the Board needed to consider a pending motion that Board Case No. M15-031 be transferred to the Office of Administrative Hearings. The Board has no objections. Attorney West was present for any questions and there were none. Mr. Byrd made the motion to approve the motion to transfer Board Case No. M15-031 to OAH. Mr. Graves seconded and the motion carried.

Mr. Barnekow and Attorney West departed the meeting.

The Board staff is in agreement with the revised consent order for Board Case No. M15-04, Neptune Management Corp. dba Neptune Society. After Board review of the consent order, Ms. Browder and Mr. Nicholson spoke on behalf of Neptune Society. Mr. Graves made the motion to accept the revised consent order. Mr. Byrd seconded and the motion carried.

At this time Ms. Browder, Ms. Ramos, Mr. Nicholson and Mr. Liggett departed the meeting.

Ms. Cress then presented the Legal Case Report for information only. Mr. Lisenbee has taken over issuing the Compliance Opinions with the exception of those that are particularly complex. Andrew Deschler, a Campbell Law School student, has agreed to work 120 hours this summer as part of a voluntary externship program. Mr. Deschler will be at the May meeting.

Two of the three hearings have been removed and there is one hearing today.

Mr. Byrd made a motion to go into closed session for attorney-client privilege. Mr. Graves seconded and the motion carried.

Upon proper motion the Board returned to open session.

Old Business: There was none.

New Business: Ms. Cress stated Terry Robinson had requested a Declaratory Ruling under 21 NCAC.0505 regarding ownership changes. Mr. Graves made the motion to accept the request for Declaratory Ruling in the matter of D16-002 and Mr. Byrd seconded. The motion carried.

Ms. Cress stated the annual Mutual Burial Association membership fee required a vote. Mr. Byrd made the motion to accept the \$.30 per member fee. Mr. Graves seconded and the motion carried.

Mr. Staton made the motion to authorize Personnel & Finance Committee to review and approve the Board's audit and financial statements for Fiscal Year 2015. Mr. Graves seconded and the motion carried.

Mr. Byrd made the motion to approve the new Board Member Policy Manual and Employee Handbook. Mr. Staton seconded and the motion carried.

Mr. Graves made the motion to pursue injunctive relief against Heritage Cremation Provider and Legacy Funeral Services. Mr. Staton seconded and the motion carried.

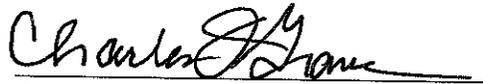
Mr. Olive made the motion to empower the Personnel & Finance Committee to make any staff changes necessary. Mr. Graves seconded and the motion carried.

Public Comment: There was none.

At 12:30 the Board recessed for lunch and to prepare for the hearing.



Valdus T. Lockhart, President



Charles Graves, Secretary

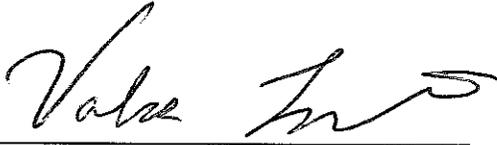
CLOSED SESSION MINUTES

April 13, 2016

Mr. Graves made a motion to go into closed session to discuss a personnel matter and a matter of attorney-client privilege. Mr. Olive seconded and the motion carried.

Upon proper motion the meeting returned to open session.

Mr. Aldridge stated that in closed session the Board had discussed various proposed changes to the Board staff's current organizational structure and a budget amendment for the 2016 budget.



Valde Lockhart, President



Charles Graves, Secretary

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April 13, 2016

Mr. Byrd made a motion to go into closed session to a matter of attorney-client privilege.
Mr. Graves seconded and the motion carried.

Upon proper motion the meeting returned to open session.



Valdus Lockhart, President



Charles Graves, Secretary