

REGULAR BOARD MEETING

MINUTES

May 20, 2009

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on May 20, 2009 at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: Larry Andrews, President; J. T. Willoughby III, Vice President; George Parrott, Secretary; Rudy Lea, Frank McCree, Tryphina Wiseman, Jack Briggs, Mark Blake, and Elizabeth Webber.

Also Present: Paul Harris, Executive Director; Stephen N. Dirksen, General Counsel; Fred Jordan with the N. C. Eye Bank, Herb Reichlin with the Funeral Consumers Alliance, Pat Hayes with North Carolina Funeral Directors Association, Jimmy Miller with the North Carolina Cemetery Commission, Licensee Horace Gunn, Jack Nichols with Allen & Pinnix, Charles McDarris with Bailey and Dixon, Carolyn Connor and Lyn Cochrane.

Mr. Andrews called the meeting to order at 9:02 a.m. and led the Pledge of Allegiance. Mr. Willoughby had the invocation.

Mr. Andrews read the Ethics Awareness & Conflict of Interest statement and Mr. Blake stated he would recuse himself from a Disciplinary item at the proper time.

Mr. Andrews asked for public comment. There was none and the visitors in attendance identified themselves.

Mr. Willoughby made the motion to go into closed session to consult with an attorney retained by the Board in order to preserve the attorney-client privilege between the attorney and the Board. Mr. Lea seconded and the motion carried.

Upon proper motion by Mr. Briggs and second by Mr. Willoughby, the Board returned to open session. Mr. Parrott made the motion to accept the Consent Order for the matter discussed. Mr. Lea seconded. Discussion ensued. Mr. Nichols stated it was not a consent order but a memorandum of understanding that would be the basis for the consent order. Mr. Parrott amended his motion to include the wording approve the memorandum of understanding. Mr. Briggs seconded and the motion carried. At this time Mr. Nichols departed the meeting.

Mr. Parrott presented the April minutes. Mr. Willoughby the motion to accept the minutes and Ms. Wiseman seconded. The motion carried.

Exam Committee: Mr. Parrott reported ten applicants took the laws and rules exam in April. Two were retakes and both passed. Two were first timers and both failed. Staff finished the last part of what Castle needs to get the computer-based exam ready. Staff will review the exam via a website. Following that review members may take the exam if they want to. This was presented for information only.

Finance/Personnel: Staff was presenting a proposal to move administration and reporting of the 401K plan to Standard Benefit Administration, LLC. This does not involve changing the 401K plan to another provider but only transferring the Third Party Administration responsibilities. Mr. Briggs made the motion to accept the proposal and Mr. Parrott seconded. The motion carried.

Following the April meeting, staff contacted First Citizens to discuss moving the approved amount from checking into an interest bearing account. The First Citizens representative is to prepare an analysis for the best way to handle this.

Mr. Briggs presented the Financials. Mr. Harris reported the audit adjustments for the deferred income has not been made but would be prior to the June meeting. Mr. Briggs made the motion to accept the report. Ms. Webber seconded and the motion carried.

Laws, Rules & Legislation: Staff received a proof for part of the 2009 Edition of the law book on Monday. Several sections were not included and LexisNexis was contacted. Staff was told LexisNexis misunderstood the scope of laws and rules to be included in the quote and it would be a significant increase to include those. An estimate of \$28,000 was given. If the CRF text related to the Funeral Rule were omitted, the price would be approximately \$20,000. Mr. Briggs made the motion for staff to negotiate the price with LexisNexis and research another provider. Mr. Blake seconded and the motion carried.

The proposed rule amendments and new rules were published Friday in the North Carolina Review. The public hearing is scheduled for June 17th in conjunction with the Board meeting. Staff will publish the changes to the interested parties list, to include all crematories since one of the new rules is related to the use of the combined 56 form.

Preneed Committee: Mr. Andrews presented the report for information only.

The Preneed Committee met by teleconference to discuss several items. Mr. Andrews deferred to Mr. Harris. Mr. Harris stated a Preneed Audit and Examinations Standard Operating Procedure draft has been developed. Mr. Miller with the Cemetery Commission had shared a template of a standard operating procedure that Mr. Harris used. On May 1 Mr. Harris met with the inspectors to review and then forwarded the draft to the Preneed Committee for review. Discussion ensued. Mr. Lea made the motion to allow the funeral home ten days to correct deficiencies that an inspector may cite during an audit and ten days to bring records in compliance in the event the inspector determines during the pre-audit interview that the firm is not prepared for an audit. Mr. Parrott seconded and the motion carried. Mr. Briggs made the motion for inspectors to give the funeral home a two-day notice of audit. Ms. Wiseman seconded and the motion carried.

Staff has received a request by a licensee for the Board to reimburse them for refunds paid on non-guaranteed portion of inflation-proof contracts due to improper calculations. Mr. Blake made the motion to deny the request for reimbursement. Mr. Lea seconded and the motion carried.

Disciplinary Committee: Mr. Lea presented the report for review. Mr. Blake recused himself from V09-009. Mr. Briggs made the motion to remove V09-009 from consideration. Mr. Willoughby seconded. The motion carried. Questions ensued. Mr. Willoughby made the motion to accept the recommendation by the Disciplinary Committee but V09-009 and the addendum. Mr. Parrott seconded and the motion carried. Mr. Briggs made the motion to accept V09-009. Mr. Willoughby seconded and the motion carried. Mr. Blake did not participate in the vote. Mr. Parrott made the motion to remove V07-043 from the addendum. Mr. Willoughby seconded and the motion carried. Mr. Parrott made the motion to accept the recommendation for V08-011 and M09-001. Ms. Webber seconded. Discussion ensued. Mr. Andrews called for the vote. The motion was opposed. Mr. Blake made the motion to accept the recommendation to approve V09-001. Mr. Briggs seconded and the motion carried. Mr. Briggs made the motion to approve the recommendation and allow the funeral home to retain their preneed license if the insurance agent in question is terminated. Mr. Blake seconded and the motion carried. Mr. Briggs

made the motion to accept the recommendation for V07-043 and deny the respondents request. Ms. Wiseman seconded and the motion carried.

At this time the Board recessed for 15 minutes and Ms. Connor and Mr. McDarris entered the meeting.

Traineeship Committee: Mr. Blake reported that the Committee continues to review the work reports for trainees. Eighteen jurisdictions responded to staff request for forms used by the respective jurisdictions.

Clinics: Ms. Wiseman reported the Committee had met by teleconference. Due to the high cost of the web cast, they were recommending that the Board not pursue this at this time. Mr. Willoughby made the motion to accept the recommendation and Mr. Lea seconded. The motion carried.

Other Committee Reports: There were none.

Attorney Report: Mr. Dirksen presented his report. One of the two hearings for 11:00 had settled. The 11:00 Thursday hearing is still scheduled. Mr. Dirksen has completed his research into whether Mark Howell could bind the corporation to the repayment agreement. It was determined that he could and therefore offers the repayment agreement to the Board for approval. This includes an initial payment of \$40,000 and approval was delayed Mr. Howell has since made two monthly payments in accordance with the terms he offered in the repayment agreement. The terms of the agreement need to be modified to reflect this. Mr. Parrott made the motion to approve the repayment agreement and Ms. Wiseman seconded and the motion carried. Mr. Willoughby made the motion to accept the amendment to the repayment agreement. Mr. Lea seconded and the motion carried. Mr. Dirksen stated there were two more Howell claims for approval of approximately \$11,000. Mr. Parrott made the motion to approve the payments from the Recovery Fund. Mr. Blake seconded and the motion carried. Mr. Dirksen presented information regarding another Recovery Fund claim due to a closed funeral home of \$2,202.20. Mr. Parrott made the motion to approve the payment and Mr. Blake seconded. The motion carried.

Executive Director's Report: Mr. Harris submitted the Inspectors Monthly Status Reports for December.

Since the April 8 Board Meeting eighteen reports have been filed. New Funeral Homes: Pinecrest Funeral & Cremation Services, Hope Mills; Cleveland Funeral Services, Cleveland; Walker Memorial Funeral Home, Lillington; Serenity Funeral Home, Inc., Beulaville; Atlantic Cremation Service, Wilmington; Ulysses D. Miller Funeral Service, LLC, Spindale. New Transport/Removal Permits: Kermit W. Thompson, Jr., Shelby; John S. Kennedy, Mt. Pleasant; Michelle Leatherman, Gastonia; Keith Russell Friday, Gastonia.

New funeral service licensees: David Cooper, William Ketterer, Norbert Starr, Tawanda Burgess, Kenneth Forrester.

New trainees: Sarah Sykes, Calvin Gladden, Amy Thomas, Avala Nealy, Eric Simmons, Kelly Emory, Brantly Grubb, Richard Robinson.

Inspector Carolyn Connor was present for questions and comments regarding her area. Mr. Andrews congratulated her for ten years of service to the Board and presented her with token of appreciation and she departed the meeting.

Mr. Harris and Mr. Andrews met with the representatives from Boyce, Furr regarding the Board audit Tuesday afternoon. Mr. Harris presented the Financial Statements as completed by Boyce, Furr. Mr. Andrews met with the representatives privately and commended Mr. Harris and staff for an excellent audit.

Mr. Harris presented the annual Report to the Joint Legislative Administrative Procedure Oversight Committee Summarizing the Licensing Activities of the North Carolina Board of Funeral Service and the Report to the General Assembly Summarizing the Pre-Need Activities of the North Carolina Board of Funeral Service.

Mr. Harris presented his ethics report and stated he attended the NCFDA Convention in Winston-Salem, had spoken with Representative Jamie Boles and Representative Melanie Wade Goodman,

Mr. Pollard with the State Auditor office has been involved with other audits but has been in contact with Mr. Harris and will have the results of the audit to him as quickly as he can.

Discussion ensued regarding legislative matters—HB-221 and SB303, HB734, HB644, HB81, HB491 and SB18.

The letter to the Editor of the News & Observer regarding Philip Guyette will be mailed this week. The letter to the banks regarding pre-need funds is not yet complete. The NC Emergency Management Mass Fatality meeting was postponed due the swine flu outbreak and will be rescheduled. Mr. Harris is still considering discontinuing the traineeship program with the Department of Labor. He has been approached by representatives from the Mexican Consulate in Raleigh in order to assist licensees with regulations when shipping remains back to Mexico. This would include placing links and contact information on the Board's website to the Mexican Consulate website and hosting contact information for the Mexican Consulate on the website. In return the Consulate Staff would provide translation of Board forms and information. They wish to enter into a Memorandum of Understanding regarding this. Mr. Briggs made the motion for Mr. Harris to follow through with this. Mr. Blake seconded and the motion carried. Mr. Harris has been in contact with the NC Commission of Anatomy and was informed his appointment had expired. Mr. Andrews re-appointed Mr. Harris to the Commission. Mr. Harris presented a revised establishment inspection form and Standard Operating Procedures for approval. Mr. Willoughby made the motion and Mr. Lea seconded. The motion carried. Mr. Harris referred to a conversation he had with Mr. Briggs concerning the frequency of crematory inspections. Mr. Harris will convey to the inspectors to make crematory inspections a priority.

The FD&MA of NC will meet in Winston-Salem for their annual convention June 11-13 and Mr. Harris will attend. There will be a Preneed Review from 9 am to 12 and an FTC Review from 1pm to 3 on May 28.

New Business: Mr. Harris introduced Horace Gunn to respond to questions on the application for an outside embalming establishment. Discussion ensued. Mr. Briggs made the motion to deny application until further information is presented to the Board. Mr. Blake seconded. Discussion ensued. Mr. Andrews called for the vote and the motion carried.

An Order of Liquidation was presented for Maultsby Mutual Burial Association, Incorporated. Mr. Lea made the motion to allow the Order. Mr. Parrott seconded and the motion carried.

A request has been received from the secretary of an MBA asking if they can be paid a salary for prior years. They are also having difficulty getting the bond for the MBA. Ms. Wiseman made the motion to deny the request for the salary and the MBA has 60 days to get the bond or the MBA will be dissolved. Mr. Willoughby seconded and the motion carried. Mr. Harris is directed to write the letter as soon as possible.

Old Business: Mr. Harris has found that the January 15, 2009 minutes should reflect approval of a Recovery Fund Claim regarding the Howell matter and was presenting them for approval. Mr. Parrott made the motion to amend the minutes and Ms. Wiseman seconded. The motion carried.

A preneed licensee that was issued a Final Agency Decision and has been suspended from writing preneed contracts for three years until a satisfactory audit has been found with deficiencies. Mr. Parrott made the motion to recommend the Board issue a Notice of Hearing. Mr. Willoughby seconded and the motion carried.

Informational Items: Included is a 2009 Best of Brunswick Reader's Choice Award to Brunswick Funeral Home and an invitation to the Dedication Ceremony of the renaming of Center Street, in Albemarle to "T. E. White, Sr., Drive" on May 30, 2009 at 2:00 p.m.

Public Comment: There was none

Mr. Parrott made the motion to adjourn the meeting. Mr. Willoughby seconded and the meeting was adjourned at 12:25 p.m.

Larry Andrews, President

George Parrott, Secretary