

## REGULAR BOARD MEETING

### MINUTES

October 14, 2009

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on October 14, 2009 at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

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

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, Litz Adams with Johnson Funeral Home in Elkin and Lyn Cochrane.

Mr. Andrews called the meeting to order at 9:00 a.m. and led the Pledge of Allegiance. Ms. Wiseman had the invocation.

Mr. Andrews read the Ethics Awareness & Conflict of Interest statement and no one recused themselves at that time. Ms. Wiseman stated she had attended the Board Meeting for the Funeral Directors and Morticians Association of NC, Inc.

Mr. Andrews asked the guests to identify themselves and make any comments. Mr. Adams provided guests and Board members with information regarding Elkin Funeral Service.

In the absence of Mr. Parrott, Mr. Andrews asked the members to review the September minutes for approval. Mr. Wiseman made the motion to approve the minutes. Mr. Lea seconded and the motion carried.

Exam Committee: Mr. Blake reported for Mr. Parrott stating six applicants took laws and rules, four were first time and two were retakes. Four passed (including the two retakes) and two failed.

Mr. Harris stated the computer-based exam is ready but since the new law books will not be mailed until late November or early December, the exam cannot be administered until at least February 2010.

Finance/Personnel: Mr. Briggs presented the financials and yielded to Mr. Harris for any comments. The Committee and staff are currently working on the 2010 budget. The law book publisher has provided an estimate of \$2800 to mail books directly to licensees, crematories and funeral homes. Staff has also requested a

quote from a local mail center and a price of \$.85 per book was quoted not including the postage. A total price will be presented at the next Board meeting.

Mr. Briggs made the motion to accept the financials and Mr. Blake seconded. The motion carried.

Laws, Rules & Legislation: The Committee met by teleconference on October 5 and were presenting and recommending the following: (1) Revised renewal forms to require disclosure of sanctions/actions/or denials since the last renewal. Require disclosure if applicant is still under probation or other court jurisdiction. (2) Insert location address and date of renewal on establishment and crematory permits. Discussion ensued. Mr. Briggs made the motion to approve the recommendations. Ms. Wiseman seconded and the motion carried. The third Committee recommendation is to deny the request by Evergreen Corp. to allow preneed sales through a chapel location. This recommendation is based on clear statutory directive of N.C. Gen. Stat. § 90-210.67(a) that "only funeral establishments holding a valid establishment permit pursuant to G.S. 90-210.25(d) shall be eligible for a preneed funeral establishment license." Mr. Briggs made the motion to accept the Committee's recommendation and Ms. Wiseman seconded. Discussion ensued. Mr. Andrews called for the vote and the motion carried.

Mr. Briggs presented for review drafts of proposed rules for licensees deployed in combat as military personnel pursuant to G.S. 93B-15(b) and procedures for late filing of annual reports also required by G.S. 93-B-2(d). These items will be voted on at the next meeting.

The Committee is working with staff to develop procedures for firms to petition the Board to find the establishment solvent in order to drop the preneed bond. This will be in the form a of a new rule.

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

Disciplinary Committee: Mr. Lea presented the report. Mr. Briggs recused himself from Case M09-029. Mr. Blake made the motion to remove M09-029 from the report and vote separately on the case and the addendum. Mr. Lea seconded. The motion carried. Mr. Briggs abstained from the vote. Mr. Lea made the motion to accept the recommendations of the Disciplinary Committee with the exception of M09-029. Ms. Wiseman seconded and the motion carried. Mr. Lea presented the addendum for review. Mr. Briggs made the motion to accept the Committee recommendations for V09-055, M09-001 and M09-012. Mr. Blake seconded and the motion carried. Discussion ensued regarding Case M09-029. Mr. Briggs did not participate in the discussion. Mr. Blake made the motion to accept the recommendations for M09-029 and Mr. Lea seconded. The motion carried. Mr. Briggs did not participate in the vote.

Traineeship Committee: Mr. Blake stated staff had received two trainee applications that will be the first to require the Supervisor Certification

Program. Another licensee requested to take the certification so he will be fully qualified when he decides to take on a trainee.

Mr. Blake yielded the floor to Mr. Harris who discussed the new trainee forms. Input from staff, trainees, and supervisors was used to update the form. Mr. Blake made the motion to accept the recommendation from the Traineeship Committee regarding the new forms. Mr. Lea seconded and the motion carried. Discussion ensued regarding the implementation of the forms. Mr. Blake made the motion to begin use of the forms from this point forward. Mr. Briggs seconded and the motion carried.

Clinics: Ms. Wiseman reported rooms are reserved for the clinic at the McKimmon Center on Friday, November 20. An embalming presentation, using audiovisual media, will be held in one room and a presentation for funeral directors will be held in the other room simultaneously for a fee of \$35 per person. One hour will be used as an update for new laws and rules in the funeral director clinic. The committee seeks authority to complete the presentation material for the remaining four hours on the funeral director presentation. Mr. Briggs made the motion to allow staff and the committee to make the decision regarding the four hours. Ms. Wiseman seconded and the motion carried.

Other Committee Reports: There were none.

Attorney Report: Mr. Dirksen presented his report. Two more Howell claims for approximately \$3700 plus interest were presented. Mr. Blake made the motion to approve and Mr. Lea seconded. The motion carried. Questions ensued regarding the Howell matter. Mr. Blake requested staff to pursue the matter of the Howell repayment. Mr. Dirksen responded a civil law suit has been filed.

Executive Director's Report: Mr. Harris reported Mr. Dirksen had been able to make a lot of progress with pending cases since the last meeting and because there were not hearings scheduled for October.

Since the September 9 Board Meeting 13 reports have been filed. New Funeral Homes—Appalachian Funeral Services and Crematory, Sylva (crematory permit has not yet been issued); Wesley Heights Mortuary Service, Charlotte; Affordable Cremations of Winston-Salem. New Crematories: Evans Cremation Center, Lenoir; Hall-Wynne Funeral Service, Durham.

New funeral service licensees: Charles Richard, Jr., Kevin Sanderlin, Kenneth Taylor, Sr.

New funeral director licensees: Catherine Davis, Dana Statton, Thomas Williford.

New trainees: Charles Chambers, Duane Cutlip, David Cochran, Ioanna Farber, Vickie Jackson, James Moss, James Shackelford, Jeremiah Whitt.

Mr. Harris stated Ms. Stegall will probably be returning to work in three weeks.

Mr. Harris stated he had met for lunch with Dan Buchanan, former mortuary school instructor, who will now be managing a North Carolina funeral home.

A letter was written to all trainees regarding the Department of Labor traineeship co-op program and the \$50 fee to register trainees after staff received a \$3000 bill from DOL. This letter explained this \$50 was not required by the Board and did not affect their traineeship. One person sent the \$50.

Duane J. Johnson vs. Forest Lawn Mortuary, Et. Al dismissed against all parties.

Information and links regarding H1N1 are on the website, were mentioned in the e-mail newsletter, and will be included in the next printed newsletter.

Mr. Harris was unable to schedule Preneed, FTC and Cremation law reviews for October but will schedule them for December. The November meeting will be held on November 4<sup>th</sup> and 5<sup>th</sup> since Board office will be closed November 11 to observe Veteran's Day. The Board Christmas Party is scheduled for December 8<sup>th</sup> at 6:30 p.m. The Newsletter will be mailed the first week of November. Mr. Andrews received the report from the State Auditor regarding closed session minutes. A response is due by October 16<sup>th</sup>. Staff is working on the response.

Mr. Briggs had questions regarding Wesley Heights Mortuary Service.

Mr. Harris stated the law books were scheduled for late November publication and a proof is expected by November 1<sup>st</sup>.

Mr. Blake stated long time licensee Allen Brown, passed away recently. Mr. Harris stated Mr. Willoughby's mother in law passed away and the service is scheduled for October 15<sup>th</sup>.

Mr. Blake made the motion to go into closed session to consult with legal counsel in order to preserve attorney/client privilege and plan an investigation. Mr. Briggs seconded and the motion carried. Mr. Andrews appointed Ms. Wiseman to keep closed session minutes.

Mr. Briggs made the motion to return to open session. Mr. Blake seconded and the motion carried.

Mr. Andrews stated there is no action taken at this time.

New Business: There was none.

Old Business: There was none.

Informational Items: Mr. Blake stated the News and Observer once again had an article regarding Mr. Guyette. Funeral homes in the plural were mentioned when

in fact only one funeral home was involved. Mr. Blake suggested another letter be written to the News and Observer.

Public Comment: There was none.

Mr. Blake made the motion to adjourn the meeting. Mr. Lea seconded and the meeting was adjourned at 10:33 a.m.

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Larry Andrews, President

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George Parrott, Secretary