

REGULAR BOARD MEETING

MINUTES

February 18, 2009

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on February 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 and Mark Blake.

Also Present: Paul Harris, Executive Director; Stephen N. Dirksen, General Counsel; Fred Jordan with the N. C. Eye Bank, Dorman Caudle with Carolina Donor Services, Herb Reichlin and Elizabeth Webber with the Funeral Consumers Alliance, Pat Hayes with North Carolina Funeral Directors Association, Reginald Richmond and Dan Funchess, funeral service licensees, Charles McDarris, and Lyn Cochrane.

Mr. Andrews called the meeting to order at 9:15 a.m. and led the Pledge of Allegiance. Mr. Willoughby had the invocation.

Mr. Andrews read the Ethics Awareness & Conflict of Interest Reminder and no member recused themselves at this time but Mr. Willoughby and Ms. Wiseman stated they had attended the February 10, 2009 Funeral Directors and Morticians Association of N. C., Inc. Board of Directors Meeting. Mr. Briggs stated a committee meeting of the North Carolina Funeral Directors Association had been held in his facility but he had not participated nor attended the meeting.

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

Mr. Andrews recognized Mr. Parrott for the presentation of the January minutes. Mr. Briggs had questions with regards to the mention of his taking the Oaths of Office at the Thursday, January 15 meeting. Mr. Harris will have staff prepare these minutes. Mr. Willoughby made the motion to accept the minutes and Mr. Wiseman seconded. The motion carried.

Exam Committee: Mr. Parrott stated exams originally schedule for January 20 were postponed due to the snow and ice. Thirteen applicants were scheduled for that date and six of them actually made it to the office. The staff was able to reschedule eight applicants on Friday, January 23 and two on Friday, February 6. One of these people was retaking the exam. All passed. The remaining three applicants asked to be rescheduled to the regular February date.

Castle will delay work on the computer-based exam until the Board discusses timing of the exam with publication of the new law books and reaches a decision. The staff has provided the committee with proposed changes to exam questions that would correspond to the new laws books. These will need to be reviewed by the board in closed session and the proper motion will be made at the end of the agenda so the meeting will not be disrupted. Staff is also coordinating with Castle for the Board members to take the computer-based exam prior to its use for applicants. A motion to delay the computer-based exam until the law books are ready was made by Mr. Willoughby. Mr. Lea seconded and the motion carried.

Staff is in discussions with the Conference to work out a process for pathology exam applicants to review the missed questions if they fail. The next meeting is scheduled for the week of the March Board meeting.

Finance/Personnel: Mr. Briggs presented the January financials. He reported that First Citizens did not process the lump sum payment draft for the mortgage last year as directed; however, they have drafted the account as well as given proper interest credit for the amount paid due to that error. Mr. Briggs yielded to Mr. Harris who reported the updated quote for the new law books was included and is the same as the original quote provided in early 2008. This amount was included in the 2009 budget. Mr. Briggs reviewed the financials and made the motion to approve the financials and Mr. Willoughby seconded. The motion carried.

Laws, Rules & Legislation: Mr. Briggs yielded to Mr. Harris who stated the Rules Review Commission approved the remaining rules during the January meeting. The proposed rule for surety bonds was returned to the agency as directed by the Board in January. The committee will also be reviewing the following matters: Requirements to determine solvency in order to discontinue a preneed surety bond and Licensee's request to require disclosures by the performing funeral home when preneed contracts were transferred due to closure of the original contracting firms' location. Mr. Lea made the motion to accept the report. Mr. Blake seconded and the motion carried.

Preneed Committee: Mr. Andrews presented the report and questions ensued. Mr. Willoughby made the motion to accept the report and Mr. Lea seconded. The motion carried.

Disciplinary Committee: Mr. Lea stated there was one addendum and Case V07-040 would be voted on separately. Discussion ensued. Mr. Lea made the motion to accept the recommendation of the committee with the exception of the Addendum and Case V07-040. Mr. Parrott seconded and the motion carried. After review of the Addendum Mr. Briggs made to motion to accept the recommendation. Mr. Blake seconded and the motion carried. Discussion ensued regarding Case V07-040. Mr. Briggs made the motion to deny the recovery fund claim for Case V07-040. Mr. Parrott seconded and the motion carried.

Mr. Dirksen stated a first request for continuance for the Thursday hearing had been received after the deadline but the defendant was present today to make the request. Reginald L. Richmond then introduced himself to the Board to request the continuance. Mr. Blake made the motion to grant the continuance and Mr. Willoughby seconded. The motion carried. Discussion ensued. Mr. Blake amended the motion to allow the hearing to be heard at the May meeting per Mr. Richmond's attorney schedule. Mr. Willoughby seconded and the motion was amended. At this time Mr. Richmond departed the meeting.

The other disciplinary item for Thursday is a license reinstatement request. Mr. Willoughby made the motion to continue this hearing until the March meeting. Ms. Wiseman seconded and the motion carried. Discussion ensued.

Traineeship Committee: Mr. Blake stated the Committee was recommending revision of policy that prohibits staff from disclosing the exact number of cases still needed by trainees nearing the end of the traineeship. Discussion ensued. Mr. Blake made the motion to accept this as Board policy. Mr. McCree seconded and the motion carried. As required by Board policy a trainee whose traineeship was suspended in accordance with Board policy for failure to submit monthly reports after notice from staff had appeared before the Committee prior to the Board meeting. After speaking with the trainee the Committee was recommending to lift the suspension. The board voted to allow the trainee to obtain a license upon meeting all statutory requirements but not earlier than April 1, 2009. Mr. Willoughby made the motion to accept the recommendation. Mr. Parrott seconded. Discussion ensued. Mr. Andrews called for the

question and the motion carried. At this time Mr. Blake yielded to Mr. Harris for discussion of Trainee Supervisor Certification. Mr. Willoughby made the motion to accept traineeship certification program. Mr. Lea seconded and the motion carried.

At this time Mr. Andrews called for a five-minute recess. At 10:35 the Board reconvened.

Other Committee Reports: There were none.

Attorney Report: Mr. Dirksen presented his report. Mark Howell has submitted a proposal for repayment to allow a \$2000 immediate payment and \$1500 a month until repaid. Staff was recommending denial since it would require 17 years to reimburse the Recovery Fund and that would not include ongoing interest back to the Recovery Fund. Fifty-seven claims have been paid with four pending approval. Discussion ensued. Mr. Briggs made the motion to approve the four pending. Ms. Wiseman seconded and the motion carried. Discussion continued regarding the Howell offer. Mr. Blake made the motion to deny his consent order counter offer. Mr. Willoughby seconded and the motion carried. Mr. Parrott made the motion to comply with the original consent order with the March response date. Mr. Lea seconded and the motion carried.

At this time Mr. McDarris entered the meeting.

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

Since the January 14 Board Meeting thirteen reports have been filed. New Establishments: Bryan Funeral Service, Columbia; Hunter's Funeral Home, Gates; Hope Valley Funeral Service, Clinton. New Chapel: Johnson Nashville Chapel, Nashville.

New funeral service licensees: Veronica Nifong, Alan Miller, Prudence McMichael

New funeral director licensees: John Dover, William Cumby, Fannie Acklin

New trainees: Rodney Lanier, Seth Wooten, Tracy Little, Makeba Gregg, William Taylor, Jeffery Garrett, Felecia Padgett, Lula Thomas, Pamela Wright, Doug Robson, Reginald Greene, Jane Carpenter, Roger Capps

New Unaffiliated: Terry Johnson Funeral Service Licensee

Mr. Harris stated he had interaction with the Funeral Directors and Morticians Association of NC, Inc., NCFDA, FCAT and General Assembly.

Renewal Update: Five preneed have not renewed by deadline and will have to secure the \$50,000 bond. Twelve establishments and thirty-five individual licensees have not renewed.

State Auditor has requested information and staff will follow up. A presentation to representatives from FCAT was made at the Board office as well as one on February 5 to Citadel Management and their funeral homes. There is a three-month turnaround on the publication date for the new law books. The 2009 Board date calendar was presented for review and approval. Mr. Blake made the motion to accept the second Wednesday and Thursday for March, April, August, September, October and December 2009. May and June meetings would be the third Wednesday and Thursday; November meeting would be the first Wednesday and Thursday. Mr. Parrott seconded the motion and it carried. July dates were not scheduled and the October Fayetteville Tech meeting was tabled until a later meeting. Mr. Harris will be attending the International Conference meeting in Williamsburg next week along with Mr. Andrews

and Mr. Willoughby. Mr. Harris referenced travel with former Board member Harvey Leavitt who is a member of the Conference Exam Committee. Finance and Personnel had met by teleconference on Tuesday to discuss the security and safety assessment for the Board office. Personnel from the security company will come by and assess the office and office during a Board meeting. Staff has been notified that several preneed firms that are being audited by may not have updated or completed their record keeping requirements prior to an audit. Inspectors have been helping or performing this work for the funeral home. They have been instructed to stop and leave the firm with a checklist to complete prior to a reinspection. Mr. Davis may be requested to do the reinspection to see if the funeral home is in compliance and there will be a reinspection fee due. Changes to the Inspection Form will be brought back at a later meeting.

During a recent preneed audit an inspector found problems with computation of sales tax on inflation-proof contracts and had instructed the firm to review files by May 31st. Disciplinary Committee was recommending the request from funeral home to waive these refunds be denied and they need to comply with the original deadline date of May 31 as written. Mr. Parrott made the motion to accept the recommendation. Mr. Lea seconded and the motion carried.

Staff has begun to receive mail using postage from an online postage company. This postage has no date on it. Staff reviewed Internal Revenue Service requirements and the IRS requires a date stamp such as a postmark and does not accept this postage for their filings. Staff was requesting that the Board accept this policy for the receipt of deadline items. Ms. Wiseman made the motion to accept the recommendation and make the date the item is received if there is no date stamp on the item. Mr. Blake seconded and the motion carried. Mr. Harris will note this in the next newsletter.

New licensees were calling staff to see when their Certificates will be mailed. Since all Board signatures are not on the certificates, staff was requesting that certificates be mailed with the eight signatures instead of the nine. Mr. Parrott made the motion to mail with eight signatures. Mr. Willoughby seconded and the motion carried.

New Business: The 2008 assessment for the Mutual Burial Associations was \$100 per Association and \$.35 per member. Staff was recommending the same fees for 2009. Mr. Briggs made the motion and Mr. Willoughby seconded. The motion carried. Mr. Harris stated Alexander Mutual Burial Association, Incorporated, Charlotte, has presented their Order of Liquidation for approval. Mr. Blake made the motion to accept the Orders and Mr. Lea seconded. The motion carried. Mr. Briggs would like to know the current active mutual burial associations. Mr. Harris will provide this information. License application matters were tabled until later in the meeting.

Mr. Blake stated his concern regarding cemeteries that were requiring consumers to only use their vault for interment. A complaint has been filed with the Cemetery Commission and they have forwarded the letter to the Attorney General for an opinion. Mr. Harris will keep the Board updated on this matter.

Old Business: There was none.

Informational Items: Mr. Harris presented a list of additional locations for Board Member Ethics training, an editorial on death data collection, and an article regarding Mr. Andrews being named President of the Board.

Public Comment: Mr. Funchess made comments regarding the Board Executive Director's presentation to his company Meeting.

With no further business before the Board, the meeting was recessed at 11:25 a.m. for the scheduled 11:00 Hearing

Upon reconvening at 1:25 Mr. Parrott made the motion to go into closed session in order to prepare and approve examination questions in accordance with G. S. 143.318.18(6). Mr. Willoughby seconded and the motion carried. Upon motion by Mr. Willoughby and second by Mr. Parrott, the Board returned to open session.

Mr. Lea moved that staff be directed to change the questions on the laws and rules computer based examination after reviewing the new questions in closed session. Mr. Willoughby seconded and the motion carried.

Mr. Harris asked if the Board wanted to reconsider their earlier directive to proceed with printing license certificates with only eight signatures. The Board did not want to reconsider and the previous directive stands. Mr. Harris mentioned two applicants who met all the statutory licensing requirements prior to Feb. 1 but because of delays beyond the applicants' control did not submit their license fee until after February 1st. These applicants are affected by the new rules regarding passing examination scores. Discussion ensued. Mr. Briggs made the motion to issue the license to the 1st applicant. Ms. Wiseman seconded and the motion carried without further discussion. Mr. Parrott made the motion to issue the license to the 2nd applicant. Mr. Lea seconded and the motion carried without further discussion.

Mr. Willoughby asked the staff about funeral home ownership, specifically if an unlicensed person may own a funeral home. Further discussion ensued and the staff explained the requirements of GS 90-210.27A. With no further business to come before the Board, Mr. Andrews declared the meeting adjourned.

Larry Andrews, President

George Parrott, Secretary