

REGULAR BOARD MEETING

MINUTES

March 11, 2009

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on March 11, 2009 at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

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

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 with the Funeral Consumers Alliance, Pat Hayes with North Carolina Funeral Directors Association, Pete Rubino, NC Safety Solutions, Kathy Gloden with Allen & Pinnix, Brett Lisenbee and Lyn Cochrane.

In the absence of Mr. Andrews and Mr. Willoughby, Mr. Parrott called the meeting to order at 9:10 a.m. and led the Pledge of Allegiance. Mr. Briggs had the invocation.

Mr. Parrott read the Ethics Awareness & Conflict of Interest Reminder and no member recused themselves at this time.

At this time Ms. Gloden administered the Oath of Office to Ms. Webber. Ms. Webber was then seated and Ms. Gloden departed the meeting. Members congratulated and welcomed Ms. Webber.

Mr. Harris stated the Statement of Economic Interest for Ms. Webber had been received and there was no conflict of interest.

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

Mr. Parrott presented the February minutes. Mr. Briggs stated there was nothing to show he had been administered the Oaths of Office at the January meeting. Mr. Harris will take care of this prior to the end of the meeting. Mr. Briggs made the motion to accept the minutes and Mr. Lea seconded. The motion carried.

Exam Committee: Mr. Parrott reported five applicants took laws and rules exam on February 24, all for the first time. Two failed and three passed. Staff has been updating the laws and rules exam question bank with the questions as approved at the February meeting. Those have been sent to Castle so they can begin to develop the exam.

Pearson Vue will provide review material for the pathology exam applicants. The Board needs to confirm that the reviews will be limited to only those who have failed and to only the questions they missed. There will be a charge to the board for this and that amount is still being discussed.

Mr. Lea made the motion to accept the report. Ms. Wiseman seconded and the motion carried.

Finance/Personnel: Mr. Briggs presented the February financials. Discussion ensued. Mr. Briggs made the motion to approve the report. Mr. Blake seconded and the motion carried.

Laws, Rules & Legislation: Mr. Briggs reported on three items. 1) The committee has started a study of the requirements for preneed establishments to determine solvency and petition the Board in order to drop the surety bond. The committee intends to bring a report back to the Board in April. 2) The committee has discussed a licensee request to introduce legislation requiring notice to consumers when a funeral home is performing a preneed contract that was originally written at a location formerly under the same ownership but was transferred when that location was closed. The committee recommends the Board not introduce legislation for this. 3) Committee recommends moving MBA rules from Title 4 to Title 21 and changing the address in those rules to the Board address. This does not require rulemaking. Mr. Briggs made the motion to accept the report. Mr. Lea seconded. Mr. Briggs, Mr. Parrott, Mr. Lea, Mr. McCree, Ms. Wiseman and Ms. Webber voted yes. Mr. Blake voted no. The motion carried.

At this time Jack Nichols with Allen & Pinnix entered the meeting. Mr. Blake 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. Ms. Wiseman seconded and the motion carried.

Mr. Briggs made the motion to return to open session and Mr. Blake seconded and the Board voted unanimously to return to open session. Mr. Briggs then made the motion authorizing staff and legal counsel to seek an injunction in the matter discussed in closed session. Mr. Blake seconded and the motion carried. Mr. Nichols departed the meeting.

At this time Brett Lisenbee entered the meeting.

Preneed Committee: Mr. Harris presented the report in Mr. Andrews' absence. Mr. Harris stated he had discovered five of Mr. Lisenbee's preneed reports had not been entered on the database and given to staff for processing dating in 2007. There were no serious problems with any of the reports and he will send a transmittal letter with each to explain the problem. This is for information only.

Disciplinary Committee: Mr. Lea stated there was one addendum to the report and the addendum would be voted on first. Mr. Lea made the motion to accept the addendum and Mr. Blake seconded. The motion carried. Mr. Lea made the motion to accept the report. Ms. Wiseman seconded and the motion carried.

Traineeship Committee: Mr. Blake stated staff has begun using the revised trainee letter and is working on the revised application form to include the trainee supervisor certification requirement and acknowledgement. Mr. Harris stated the application would be ready for review at the April meeting.

Clinics: Ms. Wiseman stated staff has contacted a video conferencing business to provide an estimate for broadcasting a clinic from a central location to two remote locations. Committee was asking for suggestions for program content from Board members and if there were not suggestions, Committee would decide. Mr. Blake suggested laws, rules and preneed.

Other Committee Reports: There were none.

Attorney Report: Mr. Dirksen presented his report. He stated the 1:00 p.m. hearing during a pretrial teleconference with Larry Andrews, a decision had been made to continue the case to prepare evidence. The 2:00 p.m. hearing was settled. Staff was requesting that the hearing set for 9:00 a.m. on Thursday be continued due to lack of a quorum. Ms. Wiseman made the motion to continue the hearing and Mr. Lea seconded. The motion carried. Mark Howell has submitted a counter proposal for repayment to allow a \$40,000 immediate payment and \$1500 a month until repaid. Discussion ensued. Mr. Blake made the motion to accept the proposal after the \$40,000 was received. Mr. McCree seconded and the motion carried. Further discussion ensued.

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

New funeral service licensees: Soo Ying Weatherspoon, Senetra Knight, Glenda Elliott

New trainees: Adam Williamson, Sharon Burden, Derek Walker, Robert Edwards Jr., Jamie Refenes, Walter Huntley, Nathaniel Hargett III, Brian Greene

New Unaffiliated: Terry Johnson Funeral Service Licensee

Since the February 18 Board Meeting sixteen reports have been filed. New Establishments: Morgan Funerals & Cremations, Rocky Mount. Ownership Changes: Lutz-Astell, Shelby

At this time Mr. Lisenbee responded to questions from the Board regarding his inspections.

Mr. Harris stated he had interaction with the NCFDA, FCAT and General Assembly. He reported that after Ms. Wiseman had taken the Ethics training she asked Mr. Harris to contact the Ethics Commission regarding access to the facility and the lack of an Ethics Commission staff person to certify those in attendance. Mr. Harris has had communication with the Ethics Commission regarding this. All Board members who have not filed a 2009 SEI form need to file by April 15 and Mr. Harris has copies of the form if needed.

Mr. Harris met with the State Auditor last week and will meeting with him again next week.

Mr. Harris reported on the International Conference Funeral Service Examining Boards Williamsburg, Virginia, conference that he and Mr. Andrews attended February 24th. Mr. Harris provided a report on the status of bills pending in the legislature. Mr. Harris reported on SB491 Expunge non-violent criminal records and will request that the Bill be amended to enable the Board to have access to expunged records.

Mr. Harris reported that Marcus Willoughby was doing well. Mr. Willoughby requested a count of current Mutual Burial Associations in North Carolina at the February meeting and the number is 75 MBA, which did not include the one that was requesting dissolution today.

The Board audit by Boyce-Furr is scheduled for April 21-23. Mr. Harris made comments regarding the current economic conditions, Board disciplinary actions, specifically, the diligence with preneed audits and any preneed funds and contracts that cannot be accounted for. Discussion ensued.

Mr. Parrott thanked Mr. Harris for attending the ICFSEB and representing the Board.

New Business: Mr. Harris stated Lewis Mutual Burial Association, Incorporated, Kernersville, has presented their Order of Liquidation for approval. Mr. Briggs made the motion to accept the Orders and Mr. Blake seconded. The motion carried.

Old Business: There was none.

Informational Items: Mr. Harris stated the new Committee Assignment and Board member roster were included.

Mr. Harris informed the Board of an article in Mortuary Management magazine regarding cremation authorizations and accurately identifying remains prior to cremation.

Mr. Blake stated Mr. Guyette of Donor Referral Services was back in the newspaper and the article stated there were funeral homes involved and it should have been funeral home. Mr. Blake suggested staff should send a response to the editor. Mr. Harris will address this.

Public Comment: There was none

Mr. Harris suggested a hearing only be considered for the last week in April. Mr. Blake would be able to sit but Mr. Lea and Mr. Parrott would not since they were on the Disciplinary Committee at the time the matters were considered. Mr. Harris will consult with Mr. McDarris regarding a meeting date of Wednesday, April 29th.

Mr. Dirksen stated under his Attorney Report was a matter he had overlooked. Claims totaling \$5000 had been received regarding the Howell matter. Mr. Blake made the motion to approve the payments. Ms. Wiseman seconded and the motion carried.

Mr. Blake discussed funds missing from banks for preneed contracts. Mr. Harris will have staff write a letter to the financial institutions in North Carolina regarding preneed contracts.

Mr. Harris may be able to obtain a copy of the HPOA document related to a lawsuit involving a North Carolina funeral home.

Mr. Parrott called for a recess at 10:40 until 11:00 to hear the licensee reinstatement request. Mr. Lea departed the meeting.

The Board reconvened at 11:00 a.m. Charles McDarris entered the meeting. Mr. Parrott recognized Mr. Dirksen for a license reinstatement request from Terence Rountree, Sr. Mr. Dirksen stated Mr. Rountree's written request was dated and received on March 9th. Mr. Rountree was entitled to fifteen days notice and would have to agree to waive the fifteen-day notice requirement. Mr. Rountree, who was representing himself, agreed to proceed. Mr. Dirksen provided the Board copies of the Consent Order between the Board and Mr. Rountree and a copy of Mr. Rountree's written request. Mr. Dirksen then made a brief opening statement. Mr. Parrott noted a typographical error in Mr. Rountree's letter and asked if Mr. Rountree wanted to correct that error to which he also agreed. Mr. Briggs asked Mr. Dirksen if there was any other evidence and to summarize the terms of the consent order. Board members then asked some follow up questions. Mr. Parrott recognized Mr. Rountree for a statement regarding his request. Board members asked Mr. Rountree questions to clarify information in the consent order and concerning his activities since the surrender of his license. Mr. Briggs asked Mr. Dirksen to address the Board's discretion with this request. Following Mr. Dirksen's reply, Mr. Blake made the motion to enter closed session for deliberation, Ms. Webber seconded and the Board voted unanimously to go into closed session.

Upon motion by Mr. Briggs and second by Ms. Webber, the Board voted unanimously to return to open session. Ms. Wiseman moved to reinstate the license of Mr. Rountree pending receipt of a new application, application fees, proof of 2008 CEUs and three year period of probation. Mr. Blake seconded. Mr. Briggs advised Mr. Rountree to be mindful of the laws and rules of the Board. The motion carried. Mr. Rountree thanked the Board and departed the meeting.

Mr. Dirksen presented a request by the attorney representing Hester, Whitted & Daye regarding wording in the final agency decision issued by the Board. Discussion ensued. Mr. McDarris recommended amending the final agency decision to reflect the request and the Board's position in the matter. Ms. Wiseman then made the motion to amend the final agency decision and Mr. Briggs second. At this time Mr. Parrott recused himself from the vote. The motion carried.

Mr. Dirksen reported during the 10:40 a.m. recess the office had received applications and documents for two new Howell claims. Mr. Blake made the motion to approve the payment of the claims and Ms. Wiseman seconded. The motion carried.

Mr. McDarris is available for the April 29 hearings.

Ms. Wiseman asked if Grace & Mercy Transport Company was related to Grace & Mercy Funeral Home. Mr. Harris responded they were two separate organizations.

Mr. Harris provided the Board copies of the minutes from January 15, 2009 per Mr. Briggs request. Mr. Briggs made the motion to accept the minutes. Mr. Blake seconded and the motion carried.

The meeting was adjourned at 12:10 p.m.

Larry Andrews, President

George Parrott, Secretary