

REGULAR BOARD MEETING

MINUTES

June 17, 2009

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on June 17, 2009 at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

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

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, Dorman Caudle with Carolina Donor Services and Lyn Cochrane.

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

Mr. Andrews read the Ethics Awareness & Conflict of Interest statement and Mr. Briggs and Mr. Lea stated they would recuse themselves from Disciplinary items at the proper time.

Mr. Andrews opened the Public Hearing to discuss 21 NCAC 34B.0616, .0706, 21 NCAC 34B.0413, 21 NCAC 34C .0303 and 21 NCAC 34D .0302. Two comments received noted grammatical errors only. There were no other comments. Mr. Andrews adjourned the hearing.

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

In Mr. Parrott's absence, Mr. Harris presented the May minutes. Mr. Willoughby noted one change on the second paragraph of the last page, the next to last sentence. Ms. Willoughby should be changed to Mr. Willoughby. Mr. Harris offered this for information only.

Exam Committee: In Mr. Parrott's absence, Mr. Harris stated four applicants took laws and rules (one retake) in May. All passed. Castle notified the staff Monday of this week that work is finished on the exam template and it is now ready for testing. Staff will inform board members when the testing will be done.

Finance/Personnel: Mr. Briggs stated the year-end journal entries from the auditor have been made and all 2008 funds moved into 2009. Mr. Harris stated one item under miscellaneous from 2009 funds needed to be moved back into 2008 funds

and he will contact the auditor for this entry. Mr. Briggs made the motion to accept the Financial Statements December 31, 2008 and 2007 as audited by Boyce, Furr & Company. Mr. Willoughby seconded and the motion carried.

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

Laws, Rules & Legislation: Mr. Briggs deferred to Mr. Harris. Mr. Harris presented proposed rulemaking by OAH related to pandemic events and other disasters; HB221 Oversight of Licensing Boards was ratified. The ratified version included changes from the previous version. This is effective October 1, 2009. Proposed legislation sponsored by Representative Angela Bryant entitled Insurance Burial Benefits Notification was reviewed by Mr. Harris. Discussion ensued. Mr. Briggs made the motion for staff to contact Rep. Bryant and request the fee be assessed annually to only funeral homes requiring the service. Mr. Willoughby seconded and the motion carried. The law book quote from LexisNexis is \$18,000 and Westlaw Publishing is \$12,500. Staff recommended the decision be deferred until July to afford staff time to review and seek additional information from Westlaw. Mr. Briggs made the motion and Ms. Wiseman seconded. The motion carried.

Preneed Committee: Mr. Andrews presented the report for information only. A request that meets all requirements to move a preneed contract out of state has been received. Mr. Andrews made the motion to allow the move and Mr. Willoughby seconded. The motion carried.

Mr. Blake referred to a conversation between he and Mr. Harris regarding the \$20 preneed filing fee and the last time there was an increase in the cost of filing the contracts. Further discussion ensued without any action.

Disciplinary Committee: Mr. Lea presented the report for review and recused himself from V09-025. Mr. Briggs recused himself from V08-014; M08-007. Mr. Harris stated neither cases involved Mr. Briggs or Mr. Lea but they had knowledge of the cases. Discussion ensued. Mr. Briggs made the motion to approve the report with the exception of Addenda Case V09-025. Ms. Wiseman seconded. Discussion ensued. Mr. Briggs withdrew his motion and made a new motion to approve the report with the exception of V09-025 and V08-014; M08-007. Ms. Wiseman seconded and the motion carried. Mr. Briggs made the motion to approve V09-025. Mr. Willoughby seconded and the motion carried. Mr. Lea did not participate in the vote. Mr. Briggs made the motion to approve M09-001. Mr. Willoughby seconded and the motion carried. Discussion ensued. Mr. Willoughby made the motion to approve V08-014; M08-007. Mr. Blake seconded and the motion carried. Mr. Briggs did not participate in the vote.

Mr. Blake began discussion regarding the Board's directive to the staff at an earlier meeting requiring the termination of an insurance agent as a condition of the consent order agreement. Mr. Dirksen stated he had not received a response from the funeral home. Mr. Briggs asked about the status of the hearing schedule. Mr.

Dirksen replied hearings were scheduled for 1:00 p.m. today and 9:00 a.m. Thursday but he believed that consent orders would be signed in those matters. Mr. Briggs further inquired about the hearing set for 11:00 today. Mr. Dirksen replied that those cases were part of the Disciplinary Addendum. Mr. Harris requested a five-minute recess to consult with Mr. Dirksen. Upon return Mr. Harris asked Mr. Dirksen to clarify his earlier statement in the matter involving the insurance agent. When Mr. Dirksen informed the attorney representing the respondents of the Board's directive, the attorney mentioned alternatives to terminating the insurance agent. Mr. Dirksen has not heard back from the attorney with the funeral home's response. Discussion ensued and Mr. Blake made the motion to give the funeral home five business days to respond or issue a notice of hearing. Ms. Webber seconded and the motion carried.

Mr. Blake stated the Committee was concerned with the misappropriation of preneed funds and creating a standard of action. He asked Mr. Harris to discuss it further. Mr. Harris is in touch with other agencies to see how they handle misappropriations. Discussion ensued.

Traineeship Committee: Mr. Blake stated the apprentice that was to meet with the Committee prior to the Board meeting had withdrawn his apprenticeship and will not pursue the funeral industry.

Clinics: Ms. Wiseman reported the Committee all preparations for the clinic next Thursday are in place.

Other Committee Reports: There were none.

Attorney Report: Mr. Dirksen presented his report. He reported that Mr. Howell is in compliance with the order and is sending the funds as required.

Executive Director's Report: Mr. Harris stated the signature cards for the STIF account with the State Treasurer office have to be renewed. Mr. Briggs made the motion to authorize Mr. Harris to sign the cards. Ms. Wiseman seconded and the motion carried.

Since the May 20 Board Meeting eight reports have been filed. New Funeral Homes—Unity Funeral Service, Fayetteville; Cumbo Funeral Home, Havelock; Rivers-Morgan, New Bern (change of ownership). New Transport/Removal Permit—Paul J. Mazette, Greenville.

New funeral service licensees: Samuel Booker, Jr., William Lum-Sandlin, Hedrick Jones.

New funeral director licensees: Wesley Sluder, James Stepp, Jr., Norman Whitted, Charles Coote, Jr.

New trainees: Jonathan Greene, Suzanne Evans, LeWanda McLean, Brian Ballard, Kevin Mukosiej.

Mr. Harris presented his ethics report and stated he attended the FD&MA of NC, Inc. Convention in Winston-Salem, had spoken with Representative Angela Bryant and staff and lobbyist for the State Association.

Mr. Pollard with the State Auditor office has spoken with Mr. Harris several weeks ago and believes he is finished with his audit

Mr. Harris has been tracking the legislation he reported in earlier meetings. Some of the bills made the crossover deadline and he will advise the Board of the statutes of the bills at a later meeting.

Mr. Harris meets with members of the NC Emergency Management Mass Fatality on Friday. Mr. Harris will discontinue the DOL Traineeship co-op and will notify them by letter of the discontinuance. The SOP's have been issued to the Inspectors for establishments and preneed. The Board clinic is scheduled for Thursday, June 25 at the McKimmon Center. The Crematory Authority will meet July 14 and one matter of discussion will be the Division of Air Quality recent interest in crematory emissions and crematories conducting higher volumes of cremations

Mr. Harris reported on a traineeship issue involving a trainee working for Ms. Wiseman. Discussion ensued. Ms. Wiseman asked about the clinic schedule and Mr. Harris gave the information and mentioned the newsletter was mailed this week which included clinic information.

New Business: Staff presented a draft of the Petition for Nomination of Candidate for North Carolina Crematory Authority. This will be mailed to all crematory operators in the state. Ms. Wiseman made the motion to approve and Mr. Willoughby seconded. The motion carried.

Old Business: Mr. Harris began to introduce Fred Rhyne who was requesting a license reinstatement. Mr. Dirksen asked for a brief recess prior to hearing Mr. Rhyne's request. Mr. Andrews granted the request and the meeting was recessed. After Mr. Andrews reconvened the meeting, Mr. Dirksen distributed information to Board members and provided a brief summary of the matter. Mr. Rhyne responded to questions from Mr. Blake. Mr. Willoughby made the motion to go into closed session to discuss the matter. Mr. Briggs seconded. Mr. Lea, Mr. McCree, Mr. Willoughby, Mr. Andrews, Mr. Briggs, Ms. Wiseman and Ms. Webber voted yes. Mr. Blake voted no. The motion carried. Before entering closed session, Mr. Briggs asked about Mr. Rhyne's current license and he responded he holds an embalmers license. The Board then entered closed session. Mr. Briggs made the motion to return to open session and Mr. Blake seconded. The motion carried. Mr. Briggs made the motion to reinstate the funeral service license for Mr. Rhyne. Mr. Blake seconded and the motion carried. Mr. Lea did not participate in the discussion or vote even though he stayed in the room.

Informational Items: Included the program for the renaming ceremony of Center Street to T. E. White Sr. Drive in Albemarle named after deceased Board Member T. E. White, Sr. and the Summer 2009 ICFSEB Conference Report.

Mr. Blake stated he needed to disclose that he had to testify in a homicide case in Roberson County because he was the funeral director. Mr. Briggs discussed an unusual circumstance in which a person opening a grave discovered a container in an adjacent grave. It was determined the container held the ashes of a pet. Mr. Harris stated the deliberations in the Graham matter were scheduled for 1:00 p.m. Mr. Briggs asked if the deliberations could begin earlier if Mr. Graham arrived earlier than 1:00 p.m. Mr. Dirksen stated Mr. Graham was notified of the deliberations and Mr. Dirksen was not certain if he would attend. Mr. Andrews mentioned he had read an article about an open-air cremation in Colorado. Mr. Lea stated his son has been hired in Anson County as the Medical Director of the Health Department. Mr. Andrews thanked Mr. Willoughby for giving the report for him at the FD&MA of NC, Inc. convention.

Public Comment: There was none

The meeting was recessed at 11:25 a.m. and will be reconvened for the 1:00 hearing.

Larry Andrews, President

George Parrott, Secretary