

REGULAR BOARD MEETING

MINUTES

August 12, 2009

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on August 12, 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, Mark Blake, and Elizabeth Webber. Jack Briggs 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 9:05 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. Willoughby and Ms. Wiseman stated they attended National Funeral Directors and Morticians Association meeting in Detroit.

Mr. Parrott presented the July minutes for approval. Mr. Willoughby stated there was one correction and that was in the second paragraph. His name should be added as absent. Mr. Parrott made the motion to approval the minutes as corrected. Mr. Blake seconded and the motion carried.

After a reminder from Mr. Lea, Mr. Andrews asked for public comment. There was none and the visitors in attendance identified themselves. Mr. Parrott mentioned it was Mr. Jordan's birthday.

Exam Committee: Mr. Parrott stated eight applicants took laws and rules in June. All were first time and seven passed and one failed. Ten applicants took laws and rules in July. All were first time and eight passed and two failed. The computer-based exam is now ready for use. Staff will now register and take the exam to test the system. Interested Board members should inform staff so they can also be registered. The "ready date" for applicants will be related to when the law books are available for distribution. This report was presented for information only.

Finance/Personnel: In Mr. Briggs' absence, Mr. Harris stated Finance Committee had met by teleconference last week to discuss the state increased travel and subsistence rates. They were recommending approval effective August 1. Mr.

Willoughby made the motion to accept the recommendation and Mr. Lea seconded. The motion carried. Mr. Harris presented the July financials. Mr. Lea made the motion to accept them and Ms. Wiseman seconded. The motion carried.

Laws, Rules & Legislation: In Mr. Briggs absence, Mr. Harris presented the report. The Rules Review Commission staff requested only two minor technical changes to the proposed rules and Board staff made the corrections. Staff is drafting rules as required under provisions of Session Law 2009-125 (H221). These are to address procedures for the board if the annual reporting deadline of October 1 is missed. Rules are also being drafted to meet the requirements of Session Law 2009-458 (H1411). This legislation provides direction on license renewals for active military personnel. The Committee had met by teleconference and recommends a delay until September 1 of publication of the new law book. This would allow inclusion of relevant enacted legislation from the current session and the approval of proposed rules/rule changes now pending with the Rules Review Committee. Delivery of the books would be in mid to late October. This could affect the "ready date" for the computer based laws and rules exam. Mr. Blake made the motion to accept the recommendation of the delay on publication of the law books. Mr. Willoughby seconded and the motion carried.

Preneed Committee: Mr. Andrews presented the report for information only. Discussion ensued. Mr. Willoughby made the motion to accept the report as information only and Ms. Wiseman seconded. The Motion carried.

Disciplinary Committee: Mr. Lea presented the report and stated there was one Addendum. Mr. Dirksen also had one addendum for which there was no written report. Mr. Blake made the motion to approve the main report and Mr. Parrott seconded. The motion carried. After reviewing the addendum a motion was made by Mr. Willoughby and seconded by Mr. Blake to approve the written addendum. The motion carried. Mr. Dirksen stated that an individual had made a license reinstatement request. Mr. Parrott made the motion to conduct a hearing in the matter. Ms. Wiseman seconded the motion and it carried.

Traineeship Committee: Mr. Blake stated the a trainee registered in May failed to submit any work reports and did not bring them for the meeting with the committee prior to this Board meeting. The committee recommends the trainee be assigned a new start date of September 1, 2009 and meet the stipulations as set forth in the meeting. Trainee and supervisor will meet with the staff prior to September 1 to review trainee requirements. Mr. Blake made the motion to accept the recommendation. Mr. Willoughby seconded and the motion carried.

Clinics: Ms. Wiseman stated the June 25 Clinic at the McKimmon Center had 48 attendees and the presentations were well received with unanimous positive comments.

Other Committee Reports: There were none.

Attorney Report: Mr. Dirksen presented his report. Mr. Lea made the motion to approve the report and Ms. Webber seconded. The motion carried.

Executive Director's Report: Mr. Harris stated under Old Business Mr. Tim Fleming and Mr. Horace Gunn would be present to answer questions from a previous meeting.

Since the June 17 Board Meeting 56 reports have been filed. New Funeral Homes—LHorton Community Funeral Home, Sanford; Long House Funeral Home, Cherokee; W. H. Bryant, A. E. Grier & Sons, Mooresville; Lindsay Memorial Funeral Home, Farmville; and Whitehead Memorial Funerals & Cremations, Rocky Mount. Change of ownership—Mackie-High Funeral Home, Granite Falls; Elkin Funeral Service (formerly Hodges), Elkin; and Moody-Connolly Funeral Home, Brevard. New Chapels—Hester-Whitted-Daye Chapel, Hillsborough; Union Chapel, Elizabethtown. Closed for transition to new ownership—Paye Funeral Home and Memorial Chapel, Fayetteville. New Transport/Removal Licensees—Robert Bodenhamer, Dobson; Ronald Smith, Charlotte; and Randy Gentry, Mooresville.

New funeral service licensees: James Swanger, John Patterson, Ethienne Rodriguez, Michael Braswell, M. Brian Hall III, Jerry Cranford, Joseph Chapman.

New funeral director licensees: J. B. Rhodes III, Sarah Tessnair, Tony Silver, Florie Russell.

New trainees: Antenor Nixon, John Wilson, Regina Taylor, Thomas Mowery, Amiee Thompson, Brandon Roberts, Kenneth Holloway.

Mr. Harris presented his ethics report and stated he met at the General Assembly to discuss HB1166. He had been in contact with lobbyist for the FD&MA of NC, Inc. and the NCFDA.

The Real Estate Board contacted Mr. Harris regarding the mandatory Board Member training required by Session Law 2009-125(H221). Board staff, outside counsel or the Institute of Government can provide these classes. Mr. Harris suggested providing the classes during a regular Board meeting day over the period of several meetings.

Mr. Harris presented five Advisory Opinions issued by the Ethics Commission and gave a brief synopsis of each.

Mr. Harris had met with Mr. Pollard from the State Auditors Office and provided him with the closed session minutes.

The budget passed including increase of fees for the State Registrar's office for vital records searches and copies. Mr. Harris reported that this does not appear to affect local death certificate cost which is still \$10.00 per certificate.

Mr. Harris gave an update on the status of pending legislation of H734, H1134, H644, SB491, H801 which were not reported out of Committee. SL2009-350(H81) which amended the Open Meetings Act and SL2009-288 (SB159) which updated the funeral expense allowance for estates.

The North Carolina Department of Environmental and Natural Resources copied the Board with a letter to the five crematories in the state that perform 532 crematories per year. If they provide 533 cases, then they must have an air emissions permit.

Mr. Harris participated in a teleconference meeting of the NC Emergency Management Mass Fatality group. The SMORT program has not progressed as anticipated. Mr. Harris plans to attend the next meeting.

The Hester-Whitted-Day appeal was dismissed. The Board received a mediation order for the Melton Riddle matter.

Mr. Harris stated Mr. Andrews had received a letter at the Board office and had given him permission to open and read. It was a complaint regarding tissue removal that the next of kin did not authorize.

The Transport/Removal application request three affidavits of character from someone that has known the applicant for three or more years. One of those three must be from a funeral director. Since persons working for a transport/removal service are required to file with the Board, an applicant has stated they do not know a funeral director and requested a response from staff. Mr. Harris would like to refer the request to Laws & Rules Committee for study. Mr. Willoughby made the motion to refer the removal/permit request to the Laws & Rules committee. Mr. Parrott seconded and the motion carried.

Mr. Harris reported receiving a call from a licensee that had requested information regarding a reciprocal license from another jurisdiction. The staff in the other jurisdiction expressed great confidence in North Carolina's licensing requirements. Mr. Harris stated that was a compliment.

Preneed, FTC and Cremation law reviews will be scheduled before the end of the year. The last reviews were well attended. Mr. Harris has been in contact with cemetery owner for Crown Memorial. A meeting to get the problems resolved is being planned. The International Conference of State Examining Boards Anaheim, California, meeting is scheduled for February 25 and 26, 2010. Mr. Willoughby made the motion for him to begin research on travel. Mr. Parrott seconded and the motion carried.

New Business: Mr. Harris presented the Crematory Authority ballot. Since there are two positions to be filled and two candidates names running, Mr. Harris referred to 21 NCAC 34C.0101(b)(6)(E) that states, in part, that if there is only one candidate for each seat, the Board shall declare the candidates elected without hold an election. Mr. Lea made the motion to accept the petitions naming J. Barry

Bowman and James D. Weatherspoon elected to the Crematory Authority. Mr. Blake seconded and the motion carried.

Informational Items: Mr. Blake stated he had testified in a homicide case that was six years old and stressed the importance of taking notes and keeping the paperwork in the deceased file for reasons such as this.

Mr. Harris stated that Mr. Parrott was absent for the June meeting and the May minutes were presented but not approved. Mr. Parrott made the motion to approve the May 2009 minutes. Mr. Willoughby seconded and the motion carried to accept the May minutes in the record.

At this time there was a ten-minute recess and Mr. Blake departed the meeting. Upon reconvening, Mr. Harris stated the Evaluation of Statement of Economic Interests letters from the State Ethics Committee were included for Mr. Andrews, Mr. Blake, Mr. Lea, Mr. McCree, Mr. Parrott, and Mr. Willoughby. Ms. Wiseman and Ms. Webber had previously filed theirs with State Ethics.

Mr. Willoughby made the motion to go into closed session to consult with an attorney to preserve the attorney-client privilege between the attorney and the Board in the matter of Duane J. Thomas vs. Forest Lawn Mortuary, et. al. Mr. Lea seconded and the motion carried. Mr. Willoughby made the motion to return to open session and Mr. Lea seconded. There was no action taken in the matter discussed in closed session.

Old Business: At this time Horace Gunn and Tim Fleming entered the meeting to discuss and answer questions regarding their outside embalming facility, Wesley Heights Mortuary Service. Discussion ensued. Mr. Willoughby made the motion to go into closed session to discuss Westley Heights Mortuary Service. Mr. Lea seconded and the motion carried. Upon reconvening, Mr. Andrews deferred to Mr. Dirksen to discuss the action taken. Mr. Dirksen stated the application was denied but can be resubmitted September 1, 2009, with the inclusion of documents showing the legal ownership structure. Mr. Lea made the motion to accept the recommendation and Mr. Willoughby seconded. The motion carried.

Mr. Andrews requested a recess in order to begin the hearing regarding Morrison-Sturdivant. At this time Charles McDaris entered the meeting. The meeting was reconvened at 11:35 with Mr. Andrews, Ms. Webber, Ms. Wiseman, Mr. McCree and Mr. Willoughby present. Mr. Parrott and Mr. Lea did not participate.

The Board recessed for lunch until the 1:00 hearing.

Larry Andrews, President

George Parrott, Secretary