

REGULAR BOARD MEETING

MINUTES

November 4, 2009

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on November 4, 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, Elizabeth Webber and Jack Briggs. Absent: Mark Blake

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, Bill Britt with McIntyre Funeral Home Ministries in Goldsboro, Charles Frances, Attorney, 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 no one recused themselves at that time. Mr. Briggs stated he attended the National Funeral Directors Association Convention in Boston last week.

Mr. Andrews asked the guests to identify themselves and make any comments. Mr. Francis and Mr. Britt made comments regarding the Board's decision on McIntyre Funeral Home Ministries and requested a reconsideration of the decision and then departed the meeting.

Mr. Parrott asked the members to review the previously mailed October minutes for approval. Mr. Harris mentioned Mr. Briggs recusal was included in the Board book but had not been mailed with the minutes. Mr. Wiseman made the motion to approve the minutes. Mr. Willoughby seconded and the motion carried.

Exam Committee: Mr. Parrott stated seven applicants took laws and rules, all were first time and one failed. This report was for information only.

Finance/Personnel: Mr. Briggs stated the financials were not included since they had not yet been received for the month. The Committee is reviewing the budget draft prepared by staff.

Staff as requested had researched local mailing service fees for mailing the law books and was quoted \$5600. Thomson Reuters estimated costs to mail the books directly from their warehouse is about \$2800. Mr. Briggs made the motion to accept the offer by Thomson Reuters to mail the law books directly from their warehouse. Mr. Lea seconded and the motion carried.

Laws, Rules & Legislation: A recent applicant for an unaffiliated status inquired if they could use a website name different from the name registered with the Board. During the conversation another unaffiliated licensee was mentioned that was using a different name. Unaffiliated licensees are required to comply with rules and regulations imposed on

funeral establishments including but not limited to statutes prohibiting the use of unregistered or misleading names. Mr. Briggs made the motion for staff to (1) send written notice to the current unaffiliated licensee using the different website name to take immediate corrective action to comply with the law, (2) inform the applicant for unaffiliated status of the requirements and (3) issue a written notice to all current unaffiliated licensees and future applicants of the requirements. Mr. Willoughby seconded and the motion carried.

Preneed Committee: Mr. Andrews yielded the floor to Mr. Harris to discuss the Committee's recommendation of requiring the use of the current certificate of performance form beginning in 2010. A copy of the form and a notice will be included with the renewal mailings. Discussion ensued. Mr. Willoughby made the motion to accept the recommendation and Mr. Parrott seconded. The motion carried.

Staff has received a request to revoke and irrevocable contract because the beneficiary has moved out of North Carolina. Mr. Briggs made the motion to approve the request. Ms. Wiseman seconded and the motion carried.

Mr. Andrews presented the preneed report for information only.

Disciplinary Committee: Mr. Lea presented the report and stated there was an addendum that may be treated separately. Discussion ensued. Mr. Dirksen stated that a check was in route by overnight courier for Case V07-014 but was not here yet. Mr. Willoughby made the motion to accept the report and addendum with the exception of Addendum Item V07-014, which was tabled to determine receipt of the check. Discussion ensued. Mr. Lea seconded and the motion carried.

Clinics: Ms. Wiseman reported on the November 20, 2009 clinic. Carl Shytle will present one session and Vickie Zimmerman and Scott Billingsly will present the other session. Registration fee is \$35 and begins at 8 a.m. The clinic is scheduled from 9 a.m. to 4 p.m. The Committee recommends a complete waiver or substantial reduction of the fee for trainees and students. Mr. Willoughby made the motion to waive the fee for trainees and students. Ms. Wiseman seconded and the motion carried.

Other Committee Reports: Mr. Willoughby presented a Continuing Education Committee report and yielded to Mr. Harris to discuss. The committee recommends adoption of a policy requiring an individual licensee to file form CE-5 at least ten days prior to enrollment and participating in an approved online CE course. Mr. Briggs made the motion to accept the recommendation from the committee. Mr. Lea seconded and the motion carried.

Attorney Report: Mr. Dirksen presented his report.

Executive Director's Report: Since the October 16 Board Meeting 22 reports have been filed. New Funeral Homes—Phillips Funeral Service, High Point; Bryson City Funeral Home and Memorial Service, Bryson City.

Closed: Smith Community Funeral Home in Williamston
Location Change: Scarborough & Hargett in Durham

New trainees: Anthony Brown, Joseph Clyburn, Sherrie Graves, Karen Green, Edward King Jr., Raymond Laws, Joshua Spencer, Duane Thomas, Nicholas West.

There was no staff ethics report for the month.

The Division of Air Quality has reported twelve more crematories are nearing their 532 annual cremations limit.

The Newsletter will be mailed on Friday.

The Board's business continuity plan is working. Marty Mills and Mr. Harris have been meeting on Friday to review administrative services matters in Ms. Stegall's absence. Staff can access their telephone lines and e-mails from off site in case they are unable to come into the office.

A Preneed review is scheduled from 9-12 and an FTC Review is scheduled from 1-3 on December 17th. The Board Christmas Party is schedule for 6:30 on December 8. More information will be included with the next Board mailing. The next Board meeting is scheduled for December 9 and 10. The election of the 2010 officers will be discussed. Mr. McCree's term will expire December 31, 2009.

New Business: There was none.

Old Business: There was none.

Informational Items: Included was the N. C. Ethics Commission October 2009 newsletter regarding gifts. Mr. Harris stated several vendors presented staff with food items during the holidays and he would ask them to discontinue this practice this year.

Included was a newspaper article regarding the handling of unclaimed bodies and a copy of a letter from the Charlotte-Mecklenburg Utilities System regarding reducing pollutants and embalming operation practices. Mr. Briggs stated he had attended a workshop on formaldehyde while he was in Boston.

Mr. Willoughby thanked the Board and staff for the concern shown for his family at the passing of his mother in law. The family appreciated the flowers, calls and cards they received. He would be leaving the meeting early because of a family matter at 1:00.

Public Comment: There was none.

Mr. Parrott made the motion to go into closed session to discuss a matter of client-attorney privilege and to discuss an investigation into alleged criminal misconduct. Ms. Webber seconded and the motion carried.

Upon proper motion by Mr. Willoughby and second by Mr. Lea, the Board returned to open session following a unanimous affirmative vote. Mr. Andrews stated that Mr. Parrott and Mr. Dirksen recorded closed session minutes. At this time Mr. Charles McDarris entered the meeting. Mr. Briggs made the motion to give the General Counsel and the Executive Director authority to use their discretion in handling the Howell lawsuit matter on behalf of the Board. Mr. Parrott seconded motion and the motion carried. Mr. Harris stated that there was no action on the investigative matter.

Mr. Andrews stated he was prepared to recess for the hearing and Mr. Briggs requested to have some discussion regarding McIntyre Funeral Home Ministries. Mr. Harris provided a timeline of events related to correcting the preneed records and the Board's 2008 Final Agency Decision. Further discussion ensued. Mr. Dirksen and Mr. McDarris recommended that any further Board discussion be held in closed session citing his concerns with staff

providing information without McIntyre being able to respond. Mr. Briggs then made the motion to enter closed session to deliberate the McIntyre request and consult with Mr. McDarris. Ms. Webber seconded motion. Mr. Lea asked if he could participate in the closed session. Mr. McDarris advised that he should not. Mr. McDarris also advised Mr. Parrott that he should not participate. Mr. Andrews called for the vote and the motion carried. Mr. Andrews stated that Ms. Wiseman would keep closed session minutes in Mr. Parrott's absence.

Upon proper motion by Mr. Briggs, seconded by Mr. Willoughby and vote of the Board, the Board returned to open session. Mr. Briggs then moved to schedule a hearing regarding the request made by Mr. Francis on behalf of McIntyre Funeral Home Ministries. Ms. Wiseman seconded. Discussion ensued. Mr. Andrews called for the vote and the motion passed.

With no further business Mr. Andrews declared the meeting to be in recess until the hearing.

Following the close of hearings, Mr. Andrews stated the meeting was back in regular session at 1:17 p.m. Mr. Dirksen stated that staff was in receipt of a check and recommended approval of the Consent Order for V07-014 which was tabled earlier in the meeting. Some discussion ensued and Mr. Parrott made the motion, with a second by Ms. Webber, to approve the Consent Order. The motion carried.

Mr. Harris stated for the record that Mr. Blake was out of town and did not participate as a Disciplinary Committee member in any of the matters brought before the Board at this meeting which would allow him, if necessary, to sit as a member of a hearing panel in any of the matters for hearing.

Larry Andrews, President

George Parrott, Secretary