

BOARD MEETING

MINUTES

December 14, 2016

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on December 14, 2016, at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: Valdus Lockhart, President; Kelly Byrd, Vice President; Charles Graves, Secretary; Craig Olive, Mark Blake, Matt Staton and Mike Stone; Absent: Elizabeth Williams-Smith.

Also Present: David Shehdan, Executive Director; Christina Cress, General Counsel; Staff members Lyn Cochrane, Brett Lisenbee, and Lloyd Davis, contractor for Mutual Burial Association audits; Dorman Caudle with Carolina Donor Services; Fred Jordan with Miracles in Sight; Bill Forsberg, Executive Director of NC Funeral Directors Association; Dan Funchess, Funeral Service Licensee, Michael Rulison, citizens and tax payer, Catherine Lee with Nichols, Choi & Lee, and Sabra Faires, the Board's Administrative Law Counsel, Nannie Barfield and Walta McKale Barfield Best, Attorney Bob Crawford and Attorney Allan Blackwell.

Mr. Lockhart called the meeting to order at 9:00 a.m. and led the Pledge of Allegiance. Mr. Graves had the invocation.

Mr. Lockhart read the Ethics Statement and no one recused themselves at this time

Mr. Lockhart stated there was no Board business in November; however, new Board member Michael Stone was present for those hearings and in attendance today for his second Board meeting. Dr. Stephen Aldridge has tendered his resignation effective November 22 and Ms. Elizabeth Williams-Smith was unable to attend the meeting and was completing her term this month. The Board thanked them for their service.

Mr. Graves made the motion to accept the October 12 and November 16, 2016, minutes. Mr. Olive seconded and the motion carried.

Mr. Lockhart reminded everyone to turn off their cell phone ringers and the guests introduced themselves.

Public Comment: Mr. Rulison read a prepared statement recommending the Board take a non-religious stance during the invocation.

Preneed Committee: Mr. Byrd stated the Committee makes the following recommendations:

Surety Bond Waiver Request #1: Approve the request for the surety bond waiver since supporting documents provided by the establishment demonstrates solvency.

Surety Bond Waiver Request #2: Deny the request for the surety bond waiver since supporting documents provided by the establishment do not demonstrate solvency.

The Committee reviewed Preneed Recovery Fund Claim Number P15-009 in the amount of \$1,500.00, and recommended denial of the claim.

The Committee reviewed Preneed Recovery Fund Claim Number P15-011 in the amount of \$5,500.00, and recommended approval of the claim in the partial amount of \$5,000.00.

The Committee reviewed Preneed Recovery Fund Claim Number P16-0132 in the amount of 2,872.30, and recommended approval of the claim in the amount of \$2,872.30.

The Committee reviewed Preneed Recovery Fund Claim Number P16-025 in the amount of \$5,613.95, and recommended denial of the claim.

The Committee reviewed Preneed Recovery Fund Claim Number P16-031 in the amount of \$1,650.00, and recommended approval of the claim in the amount of \$1,650.00.

The Committee reviewed Preneed Recovery Fund Claim Number P16-041 in the amount of \$2,000.00, and recommended approval of the claim in the amount of \$2000.00.

The Committee reviewed Preneed Recovery Fund Claim Number P16-045 in the amount of \$5,513.79 and recommended approval of the claim in the amount of \$5,513.79.

The Committee reviewed Preneed Recovery Fund Claim Number P16-046 in the amount of \$309.00 representing the 10% withheld by original contract purchase price, and recommended approval of the claim in the amount of \$309.00.

The Committee reviewed Preneed Recovery Fund Claim Number P16-021 requesting an unspecified amount and recommended denial of the claim.

The Committee reviewed Preneed Recovery Fund Claim Number P16-047 in the amount of \$6,125.00, and recommended approval of the claim in the amount of \$6,125.00.

Mr. Byrd made the motion to accept the recommendations of the Committee for all matters. Mr. Staton seconded and the motion carried.

Disciplinary Committee: Mr. Lockhart presented the following case numbers: Dismissals—P16-043, C16-088; C16-89; C16-090 and concurrent Cases M16-048 and C16-029; C16-093; C16-096; C16-097; M16-006; Letters of Caution—C16-026; C16-074; C16-091; M16-044; M16-049; M16-051; M16-051; Consent Orders—V12-017/V12-057; C116-021/C16-047; C16-068; M16-041; M16-053; Notices of Hearing—C16-094; M16-039; M16-047; M16-055; Others Matters—M16-056; M16-057; M16-058. Ms. Cress stated that the first case had been missed during the presentation. Mr. Lockhart then presented Summary Dismissal of C16-095. Mr. Graves made the motion to accept the recommendations. Mr. Byrd seconded and the motion carried.

Trainee Committee: Mr. Staton reported the Committee met prior to the Board meeting. Trainee #1 missed two monthly reports and recommendation is to lose two months credit and resume traineeship on January 1, 2017. Trainee #2 was a no show and missed two monthly reports in a row. Recommendation is to stay on suspension until they appear before the committee. Trainee #3 has not fulfilled all the requirements during the three years allowed. Recommendation is to terminate traineeship and appear before the Committee before a restart of traineeship. Mr. Staton made the motion to accept the recommendations and Mr. Byrd seconded. The motion carried.

Technology Committee: Mr. Byrd yielded to Mr. Shehdan for the review of the October 26 Committee meeting. Items discussed were infrastructure accomplishments, equipment purchases, website activities, the IT manager vacancy, new database and SharePoint. Vendor meetings have been postponed pending the hire of the new IT manager. Discussion ensued. Mr. Olive made the motion to approve the Committee recommendations and Mr. Staton seconded. The motion carried.

Finance/Personnel Committee: Mr. Lockhart stated the Committee met via teleconference on October 27 for a closed session to discuss personnel matters. Also in attendance were Ms. Cress, Mr. Shehdan and Ms. Lee. The Committee met again on November 8 to discuss the 401(k) plan and met again on December 9 for a closed session to discuss personnel matters. The 2017 budget is recommended for the Board's approval. Mr. Lockhart presented the financials and read the 2017 Budget Executive Summary. Mr. Lockhart requested that creating a 5th Inspector role be added to the 2017 goals. Mr. Olive made the motion to accept all recommendations and the financials. Mr. Graves seconded and the motion carried.

Laws & Rules Committee: Mr. Lockhart stated the Committee met by teleconference on December 7 to discuss a proposed rule, if adopted, would regulate the practice of funeral service when funeral establishments are affected by a nature disaster. Committee requested Board staff conduct additional research before the matter is considered by the full Board. The Committee also discussed the possibility of requesting and expedited periodic review of the Board's rules through the Rules Review Commission at the Office of Administrative Hearings. Committee has requested Board staff obtain additional information before the matter is considered by the full Board. This report is for information only.

Executive Director's Report: Mr. Shehdan introduced Amy Mauldin who began full time employment December 1 and also just received her degree in biology. Mr. Shehdan thanked Mr. Davis for his service to the Board since he will stop working December 31, 2016.

As of December 11th: 55 funeral homes and 40 licensees have renewed online. By mail 109 funeral homes have renewed and 516 licensees. All pocket cards have been mailed to date.

Mr. Shehdan attended the Condo Owner's Association Annual Meeting in November. There will be no fee increased for 2017. The retaining wall project is almost complete and the parking lot will be resurfaced following that. The Association was not involved in replacement or funding of the retaining wall but did hire an engineer to oversee the project in the interest of the Association. The parking lot resurfacing was in the 2016 budget but was placed on hold until the retaining wall passes inspection.

The monthly contract with WorkSmart will expire at the end of December and Mr. Shehdan is meeting with a representative to discuss continuation until an IT person is hired.

Board staff is reviewing the CE card process. Discussion ensued. At this time Ms. Fairas entered the meeting. Board staff is conducting a staff expense reimbursement by direct deposit pilot. This appears to be working well and it will be opened up to the inspectors. The Legislative Study of Occupational Licensing Boards through the Joint Procedures Oversight has been placed on hold. Inspector Hall is reviewing the Pathology Exam. The Ethics Commission will be accepting 2017 SEI forms on January 1st. Board members must file yearly by April 15th.

The International Conference of Funeral Service Examining Boards (ICFSEB) will hold their Annual Meeting in Hilton Head on March 1 and 2. The President, Vice President, Secretary and Executive Director will be attending. Discussion ensued.

Attorney's Report: Ms. Cress stated the report was for information only. At this time Ms. Barfield and Ms. Best entered the meeting. Ms. Cress presented a Statistical Review of cases from November 2015 to December 2016. Also presented was a Year in Review for Legal Matters.

Disciplinary Matter Summary:

- Out of the 17 hearings held in 2016 (excluding December):

- 8 resulted in revocation of at least one license or permit involved
 - 1 resulted in a stayed suspension contingent upon payment of a fine and probationary period
 - 1 resulted in a stayed revocation contingent upon payment of a fine
 - 1 resulted in upholding of the Board's preliminary decision to deny application for traineeship
 - 1 resulted in dismissal
 - 1 resulted in refusal to issue a license to certified trainee
 - 2 resolved by Consent Order
 - 2 resulted in contingent approval of applications for traineeship
- 58 staff-generated disciplinary matters opened thus far in 2016
 - 102 consumer complaints received thus far in 2016
 - 60 Notices of Hearing issued thus far in 2016
 - 34 matters resolved through Consent Orders in lieu of hearings thus far in 2016
 - 267 matters reviewed by the Disciplinary Committee

Preneed Recovery Fund Claim Summary:

- \$118,151.63 paid out of the Preneed Recovery Fund to reimburse 36 claimants whose applications for recovery were approved by the Board
- \$282,064.73 obtained in restitution paid directly from licensees to 54 preneed consumers in lieu of reimbursement from the Preneed Recovery Fund
- Total aggregate of \$400,216.36 recovered for or reimbursed to 90 preneed consumers who have had their preneed funeral funds misappropriated or otherwise unaccounted for
- 51 Preneed Recovery Fund applications received thus far in 2016
- 57 Preneed Recovery Fund applications reviewed by the Preneed Committee

Miscellaneous Summary:

- 18 public records requests fulfilled thus far in 2016
- 58 compliance opinions issued prior to creation of Compliance Liaison/Lead Inspector role in April
- \$2,700.00 reimbursed to the Board by licensees for costs associated with hearings to show cause

At this time Attorney Crawford entered the meeting. 6 cases were noticed for this month. One is pending a Notice of Stay, two are pending consent order signatures, two are continued and one case will be heard today. A closed session is requested later in the meeting to discuss a matter of attorney-client privilege. Mr. Blake commended Ms. Cress and the legal staff for the processing the backlog of cases and asked if there was anything the Board could do to help. Ms. Cress stated a case management database that would be compatible with the Board's at-need and preneed databases would be most helpful and as soon as the IT manager is hired, that will be addressed.

Compliance: Mr. Lisenbee presented the following information.

There have been 3289 preneed contracts recorded since the last Board report; approximately 2312 Certificates of Performance have been processed. There are 178,585 active contracts as of November 30, 2016 and preneed contracts have been enter through December 7, 2016. There are 655 licensed preneed funeral establishments and 1,736 individuals licensed to sell preneed as of December 11,

2016. There are three changes of ownership since October 12—Letchworth Funeral Home, Scotland Neck; Rich & Thompson Funeral and Cremation Service, Burlington; Rich & Thompson Funeral Services and Crematory, Graham.

Mr. Lisenbee reported that, for the October and November 2016: 42 funeral establishments were inspected, 29 preneed examinations were conducted, 6 crematories were inspected, one chapel was inspected and no unaffiliated practitioner was inspected. Inspectors fielded 340 compliance phone calls and responded to approximately 8 compliance opinions via email. Individual inspector reports were provided for the Board to review.

New Funeral Home: House of Rosadale of Funerals, LLC

Change of Ownership: Letchworth Funeral Home, Scotland Neck; Rich & Thompson, Graham; Rich & Thompson, Burlington.

New Crematories: Rich & Thompson Funeral & Cremation Service, Graham—Change of Owners

New Funeral Service Licensees: Samuel Robertson, Jason Osborne, Corey Smith, Jessie Johnson, Paul Mullins, Ebony Tanya-Main Stevenson, Yvette Whitley, Louise Hartsell (converted to FS), Christopher Hatton, and Sharon Davis.

New Funeral Director Licensees: Dana Baker, James Moss, Sarah White, Gary Wilkings, Dexter Privette, Danny Myers, and Phillip Holmes.

New Trainees: Brandy Black, Kent Brondel, Eddy Conner, James Devine, Ceclia Leonard, Kathryn McLean, Delrick McManus, and Amiee Thompson.

Old Business: Mr. Shehdan stated Crematory Authority election was held. There were three seats and three nominees—John Headley, Charles Graves, Stephen Hundley. Mr. Headley and Mr. Hundley were seated; however, since one of the nominees is a Board member currently on the Crematory Authority, the Board will need to nominate someone to fill that position. Discussion ensued. Mr. Byrd and Mr. Graves will make a recommendation at the January meeting.

New Business: 2017 officers were nominated. Mr. Byrd nominated Charles Graves for President. Mr. Olive seconded and the motion carried. Mr. Graves nominated Matt Staton for Vice President. Mr. Byrd seconded and the motion carried. Mr. Byrd nominated Craig Olive for Secretary. Mr. Graves seconded and the motion carried.

At this time Mr. Lockhart called for a five-minute recess. Upon reconvening, Attorney Blackwell entered the meeting.

Ms. Cress introduced Attorney Allan Blackwell representing Faiger Megrea Blackwell and Attorney Bob Crawford representing Blackwell Funeral Home, Case M15-043. A Notice of Hearing has been filed and a Motion of Stay is requested by Faiger Megrea Blackwell. Attorney Blackwell presented his client's Motion to Stay the proceedings. Mr. Graves called for a closed session to discuss this matter. Mr. Staton seconded and the motion carried.

At this time Mr. Caudle, Mr. Forsberg and Mr. Jordan departed the meeting. Upon motion by Mr. Graves and second by Mr. Olive, the Board returned to open session. Mr. Graves made the motion regarding Case M15-043 that the Motion to Stay be granted until the criminal appeal is resolved. Mr. Staton seconded and the motion carried. At this time Attorney Blackwell and Crawford departed the meeting.

Mr. Olive made the motion to go into closed session to discuss several matters of attorney-client privilege. Mr. Graves seconded and the motion carried.

Upon motion by Mr. Graves and second by Mr. Staton, the Board returned to open session.

Mr. Graves made the motion and Mr. Blake seconded to transfer the Board case pending against Stokes Mortuary, Stokes MBA and Marian Lewis to the Office of Administrative Hearings through a petition for contested case hearings and to freeze the accounts of the MBA.

Mr. Graves made the motion to accept the proposed Consent Judgment finding contempt in the pending litigation captioned North Carolina Board of Funeral Service v Heritage Cremation Provider, LLC, Legacy Funeral Services, LLC, Anthony Joseph Damiano and Joseph Damiano, Sr. Mr. Olive seconded and the motion carried.

The Board recessed until 12:50 at which time the hearing would proceed.

After the hearing, the Board discussed changes to proposed legislation amending the Board's practice Act. Mr. Stone made the motion that Board staff propose a list of legislative priorities to the Board. Mr. Station seconded and the motion carried.

Upon proper motion, the meeting was adjourned.

Charles Graves, President

Craig Olive, Secretary