



# NORTH CAROLINA BOARD OF FUNERAL SERVICE

## Minutes September 11, 2019 Board Meeting

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*The North Carolina Board of Funeral Service met for a duly scheduled Board meeting at 9:00 a.m. on September 11, 2019, at the Board's office located at 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.*

Present: Steve Herndon, President; Mark Blake, Vice-President; Valdus Lockhart; Craig Olive; Mike Stone; Chris Watson; Charles Graves; and Mr. Hubert Saunders. Mr. Don Brown, Secretary, joined the meeting by conference call.

Staff and Counsel: Stephen Davis, Executive Director; Amy Mauldin, Assistant Director; Brett Lisenbee, Compliance Officer; and Robert Berry, staff member.

Guests and Visitors: Lyn Cochrane, former NCBFS employee; Lisa Wooten, licensee from Hall-Wynne Funeral Home; Representative Kelly Alexander, NC House of Representatives; Dorman Caudle, Carolina Donor Services.

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Mr. Herndon called the meeting to order at 9:05 am and led the Pledge of Allegiance. He then asked Mr. Brown to offer the invocation. Following the invocation, Mr. Herndon read the Statement of Ethics and asked if any members found it necessary to recuse themselves from the meeting. Mr. Herndon and Mr. Graves recused themselves from Case Number M19-0010.

Mr. Herndon then asked guests to introduce themselves.

### **Approval of Minutes**

Mr. Herndon recognized Mr. Don Brown, Secretary, for presentation of the minutes from the August 14, 2019, meeting. Mr. Brown asked members if there were any questions or amendments to the minutes as presented. Hearing none, Mr. Brown invited a motion to approve the minutes.

*Upon a motion by Mr. Blake and a second by Mr. Graves, the Board unanimously adopted the minutes as presented.*

Mr. Herndon continued the meeting and called upon Mr. Valdus Lockhart for the Disciplinary Committee report.

## **Disciplinary Committee Report**

Mr. Lockhart presented Case Number M19-0010, Order for Summary Suspension of a licensed funeral establishment's permit to operate. Mr. Lockhart asked Mr. Lisenbee to summarize the case for the Board and offer pertinent background information leading to the recommendation for Summary Suspension. Mr. Blake questioned if any preneed contracts and associated records would be involved. Mr. Lisenbee responded that the Compliance staff would follow prescribed Board policy and protocol in the retrieval of such records if the establishment's operation is suspended. Mr. Blake then asked what plans were in place for notification to the public. Mr. Lisenbee stated that when the matter is officially resolved, the Board would notify consumers holding preneed contracts at the establishment. Mr. Blake then recommended that Board staff alert local media regarding the summary suspension if approved. Mr. Davis acknowledged his request and stated that he would contact local media.

Without further discussion among members, Mr. Herndon invited a motion for Summary Suspension as presented.

*Mr. Lockhart moved for approval of the Committee's recommendations for Summary Suspension. Mr. Blake offered a second to the motion, and the full Board voted unanimously to adopt the Committee's recommendation.*

Mr. Herndon continued the meeting and noted that he had not asked earlier if any visitor or guest wished to offer public comment. None responded, and Mr. Herndon asked for Mr. Blake to present the Finance and Personnel Committee report.

## **Finance and Personnel Committee Report**

Mr. Blake stated that the Committee reviewed the financial reports for the period ending August 2019 when they convened on September 6, 2019. He noted that the Balance Sheet continued to reflect a strong net position based upon reserved operating capital, and he reported that the Preneed Recovery Trust Fund was at approximately \$236,000. Mr. Blake asked Mr. Davis if he wished to offer additional comment regarding the Balance Sheet. Mr. Davis did not offer comment but stated that he would summarize the Report of Expenditures. He stated that the Board's expenditures as of the last Report were at 53.4% of the budget which is consistent with expectations for the period ending July 2019. He also noted that the rate of collections for revenue was tracking ahead of projections and indicated some possibility that revenues might exceed the budget amount at the end of the fiscal year.

Mr. Blake asked if members had further questions regarding the Balance Sheet or the Report of Expenditures. He then offered a motion.

*Upon a motion by Mr. Blake and a second by Mr. Graves, the Board voted unanimously to accept the Committee's recommendation to approve the financial reports as presented.*

Mr. Davis continued his report by stating that he had informed the Committee of his plan to curtail the award of compensatory time off to staff subject to the provisions of the federal Fair Labor Standards Act. He noted that it was necessary to compensate subject staff for any accrued compensatory time off and stated that workload requirements did not justify significant accruals of compensatory time off. Members discussed the overtime issue with respect to the rate of inspections by compliance staff.

Members acknowledged the importance of controlling these costs and supported the plan for management of compensatory time off.

Mr. Davis continued by briefing the Board on an agreement for contracting with Mr. W. Bain Jones, Jr., to assume the General Counsel responsibilities subject to the Board's approval. He noted that Mr. Jones would work two days per week through the end of 2019 and would then work 1 day per week beginning January 1, 2020, at an hourly rate of \$225.00 which is a reasonable market-based rate for licensed attorneys with Mr. Jones' experience.

*Upon a motion by Mr. Olive and a second by Mr. Graves, the Board voted unanimously to accept the Committee's recommendation to approve the agreement for the appointment of Mr. Bain Jones, Jr. as General Counsel as presented.*

Mr. Davis then presented a proposal to implement a 2.5% Cost of Living Increase for staff compensation which is consistent with the 2019 legislative increase for state employees in General Government. Mr. Davis proposed an October 1, 2019, effective date for the increase and noted that the Board did not grant a cost of living increase in 2018.

*Upon a motion by Mr. Blake and a second by Mr. Graves, the Board voted unanimously to approve the proposed 2.5% Cost of Living increase as presented.*

Mr. Herndon then asked Mr. Blake to continue by presenting the Traineeship Committee report.

#### **Traineeship Committee Report**

Mr. Blake informed the Board that a trainee had requested reinstatement of his resident traineeship and had appeared before the Traineeship Committee following the August 14, 2019, Board meeting to present his justification for his request. Mr. Blake summarized the request by explaining that the trainee had lapses in communication with Board staff regarding his traineeship, had a history of late reports, and told the Committee that he had not received a letter from Board staff informing him that his traineeship had expired. Mr. Blake noted that based on the discussion with the trainee as well as the evidence showing ample opportunity for him to have renewed his traineeship in accordance with the Board's statutes and rules, there was little alternative other than to deny the reinstatement. Mr. Blake said that even though Committee members were sympathetic with the trainee's situation, the Board must be consistent in its application of the Board's statutes pertaining to resident traineeships. Mr. Graves agreed and noted that the facts as presented indicated an "open and shut" case.

*Upon a motion by Mr. Graves and a second by Mr. Saunders, the Board voted unanimously to deny the request for reinstatement of the resident traineeship based on the facts presented.*

Mr. Herndon recognized Mr. Davis who presented the Executive Director's Report.

#### **Executive Director's Report**

Mr. Davis announced that Valencia Brown, a long-term staff member responsible for the data entry of preneed contracts and preparation of consumer confirmation letters, resigned her position effective

September 30, 2019. Mr. Davis acknowledged Ms. Brown's contributions to the Board and her long-term service with a public expression of thanks and appreciation.

Mr. Davis then told the Board about a program he had encountered recently as a result of a telephone call from Mr. Olive. The program, Bugles Across America, is one available to funeral establishments and licensees as they plan services and committals for veterans of the armed forces. He explained that most military honors at committals include a recorded rendition of "Taps," and he stated that this program offers volunteers who play live music upon request. He noted that this program is available throughout North Carolina and the country and that licensees could contact program representatives to coordinate arrangements with military honor guards.

Mr. Davis continued by informing the Board the Office of the Chief Medical Examiner had contacted him recently to arrange a meeting to discuss the Board's input in forms pertaining to the receipt and transportation of dead bodies under the jurisdiction of the OCME. He noted that he planned to meet with the OCME attorney and would keep the Board posted on outcomes.

He continued by reporting that Board staff would soon begin planning a new portal for the iGov system to enable on-line submission of monthly cremation reports and payment of fees.

Davis reported that the Preneed Program Manager had developed a comprehensive checklist to return to licensees sending incomplete or inaccurate preneed contracts to the Board office as a way to reduce the high volume of telephone calls and make our services to preneed licensees more efficient. He noted that more detailed information about the checklist would appear in the next Board Newsletter.

Davis concluded his report by letting the Board know that he had posted important and instructional information on the Board website for licensees regarding Disaster Planning and Recovery. He noted recent hurricanes affecting North Carolina prompted this information and stated that it was important to make it a permanent feature on the website in the event of any natural catastrophe that could hinder or interrupt licensees' ability to service families and the public.

### **Metrics**

Mr. Davis highlighted the monthly compliance and inspections report as well as information on new establishment permits, individual licenses and traineeship appointments. Members discussed the statistical data including a comparative graph showing the number of inspections for the prior three-year period. Mr. Stone noted the staffing ratio in relation to number of inspections, and Mr. Blake asked if the Board's crematory inspections were timely. Mr. Lisenbee noted that the crematory inspections are current and that the additional time required for auditing Mutual Burial Associations likely has some impact on fluctuations in the numbers of inspections completed. Mr. Watson asked if the Board had uniform standards for the number and kinds of records that inspections staff query when conducting on-site examinations of establishments. Mr. Lisenbee offered a detailed summary of audit standards for preneed and at need records. He also explained the way that inspectors integrate information from the Preneed Annual Reports into their detailed assessments of preneed records during an examination. Mr. Blake asked about preneed information prior to 1992 and whether or not compliance inspectors check those records during their examinations. Mr. Lisenbee stated that inspectors do not examine pre-1992 records unless such contracts are funded by a trust. Members continued a brief discussion of the procedures and policies that govern on-site examinations of funeral establishments.

## **New Business**

Mr. Herndon continued the meeting and asked if there were any new business items. He recognized Mr. Davis who introduced a proposed application form for Provisional License in response to recently enacted legislation. Members briefly discussed the application but asked that the Laws, Rules and Regulations Committee have an opportunity to review the form in greater detail. Mr. Herndon directed Mr. Davis to convene the Committee and present the proposed form for additional discussion.

Mr. Herndon then recognized Mr. Lisenbee who presented to the Board revisions to the Board-approved 56 series forms which are designed to track human remains from the time they are received by a crematory/hydrolysis licensee until they are returned to the authorizing agent, his or her designee, or shipped per his or her instruction. Mr. Lisenbee said that the forms now include space for licensees to insert the number of a metallic disc which may be used to identify cremated remains. Mr. Lisenbee also noted that the BFS56G form could now be used in lieu of BFS56D. Mr. Blake stressed the importance of using a disc to identify recovered cremated remains.

Mr. Lisenbee reviewed revisions to the on-line I/P Calculator which aids licensees in cost calculations for contracted services. He noted that the revisions were necessary to assure consistency in language with recent changes to the Certificate of Performance form.

Mr. Lisenbee continued by summarizing a proposal to the Board for the dissolution of the Ayden Mutual Burial Association. Members discussed this issue briefly following Mr. Lisenbee's explanation of circumstances prompting the dissolution. He also updated the Board on a matter pertaining to Whitfield and Whitley Mutual Burial Association in Washington, NC, with regard to the transfer of MBA records.

*Upon a motion by Mr. Lockhart and a second by Mr. Graves, the Board voted unanimously to adopt the proposed amendments to the BFS56 series forms as presented; the proposed revisions to the I/P Calculator as presented; and the dissolution of the Ayden Mutual Burial Association. The motion was subsequently amended to include an effective date of January 1, 2020, for the BFS 56 Series forms and approved by unanimous vote.*

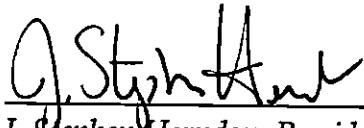
## **Old Business**

Mr. Herndon asked if members had any old business items to bring before the Board. Mr. Lockhart asked about the status of any pending legal actions in the South Central Region. Mr. Davis responded that he would speak with Nichols, Choi and Lee for further information and report back to the Board.

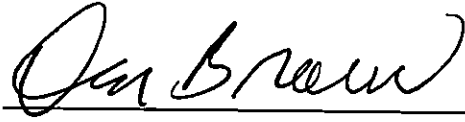
*Upon a motion by Mr. Graves and a second by Mr. Olive, the Board voted to convene in closed session to discuss a confidential human resources matter not subject to public disclosure.*

*Upon a motion by Mr. Olive and a second by Mr. Lockhart, the Board returned to open session and adjourned.*

Affirmation:



J. Stephen Herndon, President



Don Brown, Secretary

10-9-2019

Date