



# NORTH CAROLINA BOARD OF FUNERAL SERVICE

## Minutes November 13, 2019 Board Meeting

---

*The North Carolina Board of Funeral Service met for a duly scheduled Board meeting at 9:00 a.m. on November 13, 2019, at the Board's office located at 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.*

Present: Steve Herndon, President; Mark Blake, Vice-President; Don Brown, Secretary; Valdus Lockhart; Craig Olive; Charles Graves; Chris Watson; and Mr. Hubert Saunders. Absent: Mr. Stone.

Staff and Counsel: Stephen Davis, Executive Director; Amy Mauldin, Assistant Director; Bain Jones, Jr., General Counsel; and Robert Berry, staff member.

Guests and Visitors: Carlton Gray, licensee; Jeffrey D. Braley, licensee; Eric Lemons, licensee; Kristin Hiers, licensee; Paul Drewitt, licensee; Jodie Dupree, licensee; Joshua Hicks, transporter and trainee; Brian Geschickler, attorney; Mohammed A. Hussain, licensee; Mia Wenz, candidate for licensure; Frederick Wenz.

---

Mr. Herndon called the meeting to order at 9:04 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. Lockhart recused himself in the discussion and voting on Case Number C19-0040 which was to be presented in the Disciplinary Committee report.

Mr. Herndon then asked guests to introduce themselves and invited any public comment. Mr. Herndon noted the presence of a number of licensees and recognized their attendance.

### **Approval of Minutes**

Mr. Herndon recognized Mr. Don Brown, Secretary, for presentation of the minutes from the October 9, 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. Graves and a second by Mr. Saunders, the Board unanimously adopted the minutes as presented.*

Mr. Herndon continued the meeting and asked for Mr. Blake to present the Finance and Personnel Committee report.

## **Finance and Personnel Committee Report**

Mr. Blake reported that the Finance and Personnel Committee convened by conference call at 9:00 am on Thursday, November 7, 2019, at the Board office. He stated that in addition to himself, Mr. Lockhart, Mr. Stone and Mr. Herndon were in attendance. Mr. Blake conveyed to the Board that the primary agenda item considered by the Committee was the monthly Report of Expenditures and the Statement of Net Position for the period ending September 2019.

Mr. Blake then asked the Executive Director, Mr. Davis, to summarize the financial reports. Mr. Davis reviewed the Statement of Revenues and Expenditures by noting that at the end of the third quarter in the fiscal year, the Board's total operating expenses in relation to revenue collected was 69.9% which was significantly less than the 75% that would typically be expected for the period ending September 30<sup>th</sup>.

Mr. Davis commented that staff continue to manage the Board's budget in a conservative manner and expect that it will continue to stay slightly ahead of revenue collections. He noted that revenue collections had slowed compared to the first two quarters in the fiscal year but expected them to meet the projected amounts. He said that revenue collections at the end of September represented 84.1% of the total amount project for revenue in 2019.

Mr. Davis continued his report by summarizing the Statement of Net Position. He noted that the Preneed Recovery Trust Fund continued to maintain a strong position with \$220,197 in reserve. He also commented that the Committee may want to consider adjustments in the various fund balances to assure sufficient funding for the Board's projected short-term and long-term needs. He noted that two of the three HVAC units for the office space are past their life span, and he advised that it would be important to plan for replacing these units in 2020 and that he would recommend an appropriate expenditure in the budget for FY 2020.

Mr. Davis concluded his summary of the financial reports by explaining that he and Ms. Mauldin had met with Shannon Berry at Thomas, Judy and Tucker to begin initial planning for the 2020 budget recommendations which he will bring to the December Board meeting. Members briefly discussed the Board's financial reports in terms of revenues and expenditures for operating expenses and expressed confidence in staff's management and administration of the budget. Mr. Blake noted that the transition to Thomas, Judy & Tucker to oversee the Board's accounting functions had proven an important advantage in terms of the Board's fiduciary responsibilities.

Mr. Blake continued his report by stating that the Committee met in closed session to discuss a disciplinary matter pertaining to an employee whose conduct and utilization of employee leave was inconsistent and in contradiction to the Board's human resources policies.

Mr. Herndon continued the meeting and called upon Mr. Blake to present the Traineeship Committee report.

## **Traineeship Committee Report**

Mr. Blake reported that the Traineeship Committee met by conference call on Thursday, November 7, 2019, at the Board office to discuss a staff proposal for the revision of the monthly trainee work report forms. He noted that trainees are currently required to report to the Board each month their core activities and total hours for the month. He noted that the forms currently in use have not been revised for several years and that staff recommended revisions to make the forms easier to understand and complete.

Mr. Blake invited Mr. Davis to offer more detailed information regarding the proposal from staff. Mr. Davis stated that staff recognized that a number of trainees are not properly completing their monthly work reports which results in telephone calls or the need to return forms for proper completion. He conveyed staff's concern that trainees would likely benefit from revisions to the form to assure greater clarity in the proper entry and submission of work-related data their core activities. He also noted that he wanted the forms to convey a more professional appearance in terms of format and design.

Mr. Davis and Ms. Mauldin then reviewed the proposed format and content changes with the Board. It was noted that only minor content changes were proposed for the core activities and that other content changes were primarily under secondary activities. Members discussed the content and format changes and acknowledged that every effort should be made to facilitate the accurate and timely completion of the reports.

Mr. Graves asked about the extent to which trainees are not completing the forms properly and for an estimate from staff on how many are having problems. Ms. Mauldin explained that staff does not have a precise number of trainees who submit their monthly work reports with errors, but she noted that it would be a significant percentage. Mr. Lockhart stated his agreement with the proposed revisions and noted the importance for trainees to be held accountable for submitting the reports on time and accurately. Members discussed the issue briefly before voting on the Traineeship Committee's recommendation for approval.

*On a motion by Mr. Graves and a second by Mr. Brown, the Board voted unanimously to approve the proposed revisions to the monthly traineeship forms.*

Mr. Herndon then asked Mr. Lockhart to present the Disciplinary Committee Report.

## **Disciplinary Committee Report**

Mr. Lockhart reported that the Disciplinary Committee convened by conference call on Friday, November 8, 2019, at the Board office to consider and develop recommendations on the following cases:

### **Summary Dismissals**

C19-0050, C19-0055, C19-0060. Mr. Lockhart noted that Counsel had proposed summary dismissal in these cases since these complaints did not appear to fall within the Board's jurisdiction.

### Letters of Caution

C19-0040. Mr. Lockhart reminded the Board that he had recused himself on this particular case and that Mr. Watson would offer details and a summary along with the Committee's recommendation. Mr. Watson provided pertinent details of the case and then asked for a vote from the Board.

*On a motion by Mr. Watson and a second by Mr. Olive, the Board voted affirmatively to adopt the Committee's recommendation to issue a Letter of Caution to the respondent.*

### Notices of Hearing

C19-0022, C19-0041. Mr. Lockhart presented a summary of these cases.

After a brief discussion, Mr. Herndon invited a motion to adopt the Committee's recommendations on all cases presented except for C19-0040 since that case was previously decided.

*On a motion by Mr. Lockhart and a second by Mr. Graves, the Board voted to adopt the Committee's recommendations for the Summary Dismissals and Notices of Hearing as presented.*

Mr. Herndon then asked Mr. Davis to present the Executive Director's report.

### Executive Director's Report

Mr. Davis reported on the following items:

- Status report on license renewals for 2020
- Dates and location for the 2020 Annual Meeting of The International Conference of Funeral Service Examining Boards
- Interview with WSOC-TV regarding Heritage Cremations and Legacy Funeral Services
- Proposed amendment to the federal FTC Funeral Rule regarding whether or not General Price Lists should be made available online
- Development and availability of a general information sheet on provisional licensure
- Proposed online portal for submission of monthly cremation reports

### Legal Report

Bain Jones, General Counsel, presented information regarding a case that came before the Board earlier in the year pertaining to a request from a licensee in Florida for a reciprocal license from North Carolina. Based on the licensee's response to a particular question on the application for licensure, the Board denied the request for reciprocity. The licensee requested a hearing before the Board but agreed to a Consent Order negotiated through the respondent's counsel. Mr. Jones presented the proposed Consent Order which would allow the admission of additional clarifying documents pertaining to the applicant's criminal history background check which would enable the Board to issue a reciprocal license.

Members discussed the case and asked for clarification as to the specific reasons for denial when the case was presented earlier. Mr. Jones responded to members' questions.

*On a motion by Mr. Graves and a second by Mr. Blake, the Board voted unanimously to issue a reciprocal license to the applicant based upon the additional, clarifying information received.*

### **Old Business**

Mr. Herndon asked members for any Old Business items.

Mr. Blake raised the issue regarding the intake and disposition of consumer complaints and Board-generated complaints. He stated that he understood that the Board could not address issues of concern other than those expressed as a consumer complaint or one that is staff-generated. He described situations in which a Board member may be aware of concerns that are sufficiently egregious that the Board member should be able to authorize an investigation by compliance staff. He noted in particular that issues involving unlicensed funeral practice are particularly concerning and that Board members should be able to request an investigation without a requirement for an official consumer complaint. Members discussed the issue and asked staff to discuss it internally and report back to the Board at a future meeting.

Mr. Blake also raised an issue that the Board has discussed in the past. He reported continuing concerns with the release of decedents with a cause of death indicating that the Office of the Chief Medical Examiner should have received the body rather than a funeral home. He noted that funeral establishments continue to face these circumstances and are receiving decedents who should be subject to examination and investigation based upon the cause of death by OCME. Mr. Davis acknowledged Mr. Blake's concerns and conveyed to the Board that Dr. Michelle Aurelius, Chief Medical Examiner, had spoken about similar concerns when she met in June 2019 with the Funeral Directors and Morticians Association of NC. He proposed that the Board invite Dr. Aurelius to attend a future Board meeting and address the issue in a direct conversation with Board members. Board members agreed that Mr. Davis should reach out to Dr. Aurelius with an invitation as described.

### **New Business**

Mr. Herndon then recognized Mr. Davis to introduce the New Business item regarding the NC Crematory Authority. Mr. Davis stated that Ms. Mauldin would brief the Board on the NC Crematory Authority election which was announced at the October 9, 2019, meeting. Ms. Mauldin noted that the Authority had three [3] open seats and that there were three [3] nominations. In accordance with the statute and rules, the three [3] nominees will fill the three [3] open seats subject to the Board's approval.

*Upon a motion by Mr. Graves and a second by Mr. Brown, the Board voted unanimously to approve the three [3] nominees to fill the three [3] open seats on the NC Crematory Authority.*

Mr. Herndon then announced that the Board would conduct an election for the 2020 Board Officers. He invited nominations for the office of President.

Mr. Blake was nominated as President for the 2020 term.

*On a motion by Don Brown and a second by Craig Olive, the Board voted unanimously to elect Mr. Blake as President.*

Mr. Herndon invited nominations for Vice-President. Mr. Watson and Mr. Brown were nominated.

*On a motion by Mr. Blake and a second by Mr. Saunders, six [6] Board members voted for Mr. Brown and two [2] Board members voted for Mr. Watson.*

Mr. Herndon invited nominations for Secretary. Mr. Watson was nominated.

*On a motion by Mr. Olive and a second by Mr. Brown, the Board voted to elect Mr. Watson as the 2020 Secretary.*

Mr. Herndon announced a brief break in the Business Session at 10:35 to await the arrival of outside counsel from Nichols, Choi and Lee. Mr. Herndon reconvened the Business Session at 10:53 with the arrival of Mr. Nichols from Nichols, Choi and Lee. Prior to the break, Mr. Lockhart asked staff for a brief update on a pending Summary Suspension involving Western Carolina Funeral and Cremations Services, Inc. Mr. Jones responded that the matter was scheduled for hearing at the December meeting.

#### **Outside Counsel Update**

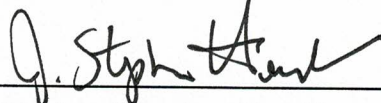
Mr. Herndon recognized Jack Nichols from Nichols, Choi and Lee to update the Board on pending litigation requiring outside counsel. Mr. Nichols reported that a ruling from the court in the matter of *Rosadale Funeral Parlor, Inc. v NC Board of Funeral Service* resulted in the denial of petitioner's Motion for a Stay thus closing that case. Board members discussed pertinent aspects of the case and its evolution through the general courts and thanked Mr. Nichols for his diligence in representing the Board in this case. Mr. Nichols reported that there were two other cases possibly requiring outside counsel but that his firm had not begun any proceedings on these pending matters pursuant to the Board's decision to employ another firm for outside counsel work.

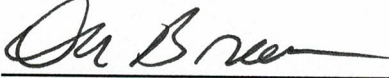
Without further agenda items for discussion and consideration, Mr. Herndon invited a motion for adjournment.

*Upon a motion by Mr. Olive and a second by Mr. Brown, the Board voted unanimously to adjourn the meeting.*

---

Affirmation:

  
\_\_\_\_\_  
J. Stephen Herndon, President

  
\_\_\_\_\_  
Don Brown, Secretary

12/11/2019  
\_\_\_\_\_  
Date