



NORTH CAROLINA BOARD OF FUNERAL SERVICE

Minutes December 11, 2019 Board Meeting

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting at 9:00 a.m. on December 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; 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: Dorman Caudle, Carolina Donor Services; Dr. Steven L. Lyons, Lyons Funeral Home;

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. Graves and Mr. Herndon stated that they would recuse themselves for the scheduled hearing in the matter of Western Carolina Funeral and Cremation Services, Inc.

Mr. Herndon then asked guests to introduce themselves and invited any public comment. No visitor or guest offered public comment.

Approval of Minutes

Mr. Herndon recognized Mr. Don Brown, Secretary, for presentation of the minutes from the November 13, 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. Watson and a second by Mr. Lockhart, 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 met by conference call on Friday, December 6, 2019, at the Board office with attendance by Mr. Herndon and Mr. Lockhart. Mr. Blake noted that the

Committee considered a number of agenda items including a proposal from staff for the 2020 Board budget and a proposal for a new payroll system. Mr. Blake recognized Executive Director Davis for a more detailed summary of the agenda items. Mr. Davis reviewed the Report of Revenues and Expenditures and the Balance Sheet for the period ending October 2019. He reported that the Board's net position continues to be strong and that the Preneed Recovery Trust Fund has maintained funding levels above \$200,000 which assures its solvency. He noted that the expenditures for the period ending October 2019 were 5% lower than the level that would be expected for that time period. He noted that staff continues to manage and administer the budget as efficiently as possible.

Mr. Davis concluded his summary, and Mr. Blake asked members for any questions or comments. Hearing none, Mr. Blake offered a motion to approve the Balance Sheet and Report of Revenues and Expenditures.

Upon Mr. Blake's motion for approval and a second by Mr. Graves, the Board voted unanimously to approve both reports as presented.

Mr. Blake then asked Mr. Davis to present staff's recommendations for the 2020 budget. Mr. Davis explained to the Board the procedures he and Ms. Mauldin adopted for the development of the budget proposal including information on trend analysis of revenues and expenditures for the preceding 5-year period. He also noted that the budget proposal included funding for projected costs in 2020 including HVAC replacement, health benefits increases, and improvements to the office suite including painting.

He reported that the overall projected increase in the budget compared to 2019 is 4.7%. He also stated that the projected increase in revenue is 5% to reflect an ascendant trend in cremations based upon analytical studies from the National Funeral Directors Association and the NC Department of Labor.

Mr. Davis invited questions or comments regarding the proposed budget. Members discussed the proposal in terms of overall growth and trends in expenditures and revenues for the past five (5) year period.

Mr. Blake offered a motion for adopting the proposed budget for the 2020 fiscal year.

Upon Mr. Blake's motion for adoption and a second by Mr. Graves, the Board voted unanimously to adopt the proposed budget for FY2020 as presented.

Mr. Blake then asked Mr. Davis to explain to the Board a proposal for transferring the Board's payroll system from ADP Payroll Services to Thomas, Judy & Tucker, the Board's outsource accountants. Mr. Davis noted that he and Ms. Mauldin had determined that the current payroll provider is inadequate in terms of tracking employee time and attendance.

He reported that ADP Payroll Systems maintain independent systems for tracking time taken for annual, sick and discretionary leave and biweekly payment of salary to employees. Resulting data extracts from ADP there do not show a consistent leave balance for employees since the balances shown on employees' deposit slips differ from their actual balances as recorded on the ADP time and attendance system.

Mr. Davis said that transferring the payroll system to Thomas, Judy and Tucker would place the Board's financial systems under a single organization, and he noted that the payroll software used by TJT is a subset of the software used for preparation of the Board's monthly financial reports. He presented a cost proposal to members for their consideration. He reported that the projected planning and implementation costs would be \$6,250 with an annual cost thereafter of \$792 based on an employee census of 11 employees. He noted that the current monthly cost for AD:P is \$739.

Members briefly discussed the issue and concurred that the Board would realize specific benefits and advantages by transferring the payroll system to Thomas, Judy & Tucker. Mr. Blake reminded the Board that his wife is an employee of Thomas, Judy & Tucker in a division completely separate from the Outsource

Accounting Division that would manage and administer the payroll system, and he subsequently recused himself from voting on the matter.

Upon a motion by Mr. Graves and a second by Mr. Saunders, the Board voted affirmatively to transfer the payroll system from ADP Payroll Services to Thomas, Judy & Tucker.

Mr. Davis continued his summary of the Finance and Personnel Committee meeting by noting that the Board has traditionally awarded permanent full-time employees an end-of-year salary supplement to recognize their performance and diligence throughout the year in meeting the Board's expectations for service to licensees and consumers. He noted that the Board awarded eligible employees a \$500 compensatory supplement in 2018 and asked that the Board consider a similar one-time addition to employee compensation for 2019.

Members acknowledged staff's work in assuring that the Board meets its statutory requirements for regulation, licensure and consumer protection. Members also noted the importance of recognition and appreciation for staff's work as a critical factor in retention and motivation. After brief discussion, Mr. Blake invited a motion for approval.

Upon a motion by Mr. Graves and a second by Mr. Lockhart, the Board voted unanimously to award eligible employees a \$500 supplement to compensation for 2019.

Mr. Blake thanked members for their consideration and vote on the Committee's recommendations. 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 December 5, 2019, to consider the following cases:

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| C19-0020 | Summary Dismissal | Lack of Jurisdiction |
| C19-0054 | Summary Dismissal | Lack of Jurisdiction |
| C19-0039 | Dismissal | No basis for disciplinary action |
| C18-0046 | Letter of Caution | |
| C19-0014 | Letter of Caution | |
| C19-0042 | Letter of Caution | |
| C19-0043 | Letter of Caution | |
| C19-0048 | Notice of Hearing | Concurrent case M19-0010 |
| C19-0058 | Consent Order | Concurrent Case C18-0072 |

Members briefly discussed the cases as presented by Mr. Lockhart. After the discussion, Mr. Lockhart offered a motion to approve the Committee's recommendation on the Summary Dismissal, Dismissal, Letters of Caution and Notice of Hearing.

Upon Mr. Lockhart's motion for approval and a second by Mr. Graves, the Board voted unanimously to approve the Disciplinary Committee report for the summary dismissals, dismissal, letters of caution, and the notice of hearing.

Mr. Lockhart then presented the Committee's recommendation to approve a Consent Order in the matter of C19-0058 [Concurrent Case C18-0072] which involved a complaint that a licensee of the Board and the licensed funeral establishment had acted improperly in the execution of competing contracts for goods and services as well as following statutory requirements for the disposition of cremated remains.

The Board discussed the recommendation at length and asked questions of General Counsel who offered detailed explanation of the circumstances associated with the complaint and the subsequent discussion with the funeral establishment regarding the case. Members expressed concern about the imposition of a monetary penalty and whether or not such a fine would establish a precedent in future cases.

After continued discussion among members, Mr. Lockhart offered a motion for approval of the recommendation for Consent Order which included a Letter of Caution and a fine.

Upon Mr. Lockhart's motion for approval and a second by Mr. Blake, 2 members voted for approval and 3 members voted to deny the recommendation. 3 members did not vote.

After voting, members raised additional questions related to the discussion on C19-0058 to assure a clear understanding of the proposed actions from General Counsel. Members expressed confusion about the rationale and basis for the proposed fine but stated that they were in agreement on the proposed Letter of Caution. Members expressed concern that the fine initially appeared the result of poor management practices and the establishment's challenges in dealing with a dysfunctional family. After additional clarification and explanation from General Counsel, members offered an additional motion on the matter.

Mr. Blake moved for approval of C19-0058 based on an understanding that the proposed monetary penalty on the licensed establishment was based upon all circumstances and conditions associated with the establishment's decisions regarding two different family groups with competing demands. Mr. Brown seconded the motion. Members voted unanimously to approve the recommendation for a Consent Order including a letter of caution and a monetary penalty based upon additional clarifying information from General Counsel.

Mr. Lockhart thanked members for their consideration and deliberation on the proposed disciplinary matters.

The President announced a recess at 10:14 a.m. He reconvened the Board at 10:31 a.m. and asked Mr. Davis to present the Executive Director's report.

Executive Director's Report

Mr. Davis reported on the following items:

- Status Report on Renewals for 2020
Number Renewals Since Portal Opened 350
General Mailing in December 6th
- Scam Alert from the NC Medical Board
- Executive Director Interview with WSOC-TV on November 8, 2019
Content: Heritage Cremations/Legacy Funeral Services

- Cremations
New Portal for Monthly Cremation Reports
- Co-Rule Making Coordinator with the Office of Administrative Hearings
Recommendation for Amy Mauldin to be appointed as Co-Rulemaking Coordinator

Upon a motion by Mr. Lockhart and a second by Mr. Graves, the Board voted unanimously to recognize Amy Mauldin, Assistant Director, as a Co-Rulemaking Coordinator for the Board.

Old Business

Mr. Blake was recognized to offer information regarding the practices and procedures of the Office of the Chief Medical Examiner and related jurisdictional issues when determining which deaths are considered medical examiner cases. Mr. Blake was particularly concerned about the inconsistency in the way that deaths are accepted as cases under the jurisdiction of OCME as well as continued concerns about the refusal of physicians to sign death certificates and record a cause of death. Mr. Blake was deeply concerned about the impact of these issues on families.

Members discussed this issue and agreed that further discussion with the Chief Medical Examiner and the NC Medical Board would be critical in addressing these issues. The Executive Director noted an earlier meeting with OCME staff on other issues and stated that he would contact the appropriate parties to convene a meeting with the Board.

New Business

New business items relating to Promession and Human Composting were deferred until a future Board meeting. Mr. Davis conveyed to the Board information he had received from The International Conference of Funeral Service Examining Boards regarding the continued operation of Heritage Funeral and Cremation Services, an unlicensed entity under court orders not to operate in North Carolina. Mr. Davis reported that The Conference relayed information that Heritage was operating under an additional name, The Funeral Group, in soliciting consumers online. Mr. Davis then reminded members that it was necessary to adopt a 2020 meeting schedule. He presented proposed dates for the Board's meeting schedule in 2020. Brief discussion followed.

Upon a motion by Mr. Blake and a second by Mr. Graves, the Board voted unanimously to adopt the proposed meeting schedule for 2020 with the additional date of July 8, 2020.

The Board then convened in closed session to discuss the performance and compensation for the Executive Director and Assistant Director.

Upon a motion by Mr. Graves and a second by Mr. Lockhart, the Board voted unanimously to reconvene in closed session.

Upon a motion by Mr. Watson and a second by Mr. Saunders, the Board voted unanimously to return to open session.

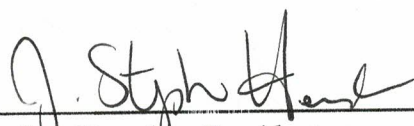
The Board then met in open session for the hearing in the matter of Western Carolina Funeral and Cremation Services, Inc. At the close of the hearing, the Board returned to closed session to discuss a pending human resources matter involving employee discipline for inappropriate and deficient job performance.

Upon a motion by Mr. Graves and second by Mr. Blake, the Board voted unanimously to convene in closed session.

Upon a motion by Mr. Blake and a second by Mr. Olive, the Board voted unanimously to reconvene in open session.

Without further business before the Board, the President adjourned the meeting.

Affirmation:



J. Stephen Herndon, President



Don Brown, Secretary

1-15-2020

Date