



NORTH CAROLINA BOARD OF FUNERAL SERVICE

Minutes
January 13, 2021, Board Meeting

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting at 9:00 a.m. on January 13, 2021, at the NC Board of Funeral Service office suite at 1033 Wade Avenue, Suite 108, Raleigh, NC 27605. The meeting was livestreamed through YouTube to allow public access and CE credit for licensees.

Present: Don Brown, President; Chris Watson, Vice-President; Steven Lyons, Secretary; Mark Blake; Steve Herndon; Hubert Saunders; Robb Jansen; Darrell McCormick; and Thomas Hilderbrand.

Staff and Counsel: Stephen Davis, Executive Director; Amy Acord, Assistant Director; Catherine Lee, General Counsel; and Brett Lisenbee, Compliance Officer.

Guests and Visitors: Mr. Chase Noble, Executive Administrator, NC Funeral Directors Association.

Mr. Brown called the meeting to order at 9:17 a.m. and read the Statement of Ethics and asked if any members would be recusing themselves. None recused.

He then recognized guests in attendance and asked for any public comment. Mr. Noble stated the NC Funeral Directors Association would appreciate the Board's opinion on the Association's proposed Annual Meeting for 2021. He noted that the Association was considering an in-person or virtual meeting, or a combination of the two formats. Brief discussion ensued.

Mr. Brown continued and asked Dr. Lyons to present the minutes from the December 9, 2020, Board meeting.

Approval of Minutes

Upon a motion by Dr. Lyons and a second by Mr. Herndon, the Board adopted the minutes as presented by unanimous roll-call vote.

Mr. Brown continued the meeting by asking 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 on January 7, 2021, by conference call to review and discuss the November 2020 financial reports. Mr. Blake noted that the report on revenues

and expenditures showed continued good management by staff of the Board's financial resources. He asked Mr. Davis to offer additional comments on the Statement of Revenues and Expenses as well as the Statement of Net Position.

Mr. Blake moved that the Board approve the financial reports for the period ending November 2020 as reported. Mr. McCormick offered a second, and the Board voted in the majority by roll call to approve the motion. Mr. Saunders and Mr. Watson did not vote.

Mr. Blake then reported that the Committee heard updates from Mr. Davis on the transition of the Board payroll system from ADP Services to Thomas, Judy & Tucker [TJT] in response to an earlier Board approval for the shift. Mr. Blake also noted that members asked if there were any pending personnel matters to come before the Committee, and Mr. Davis stated that there were none. He stated that staff were working on license renewals for 2021 as well as maintaining Board operations effectively from a human resources perspective. He noted that the new Compliance Inspector, Debbie Hamm, had completed an intensive multi-month training on her role as a member of the compliance inspections team.

Mr. Brown continued the meeting and asked Mr. Herndon to present the Disciplinary Committee Report.

Disciplinary Committee Report

Mr. Herndon stated that the Disciplinary Committee met on Friday, January 8, 2021, to consider and discuss cases and recommendations from General Counsel Catherine Lee for the following:

Summary Dismissal

C20-0094

Dismissals

C20-0075 C20-0080 C20-0093

Letters of Caution

C20-0079 C20-0081 C20-0086 M21-0003

Notices of Hearing

C20-0087/C20-0088 M21-0001 [Concurrent cases P20-0005 and P21-0001]

Mr. Herndon invited any questions or comments from Board members. Mr. Blake asked Ms. Lee why the preneed cases were dismissed in C20-0094. Ms. Lee responded with additional information and clarification. She noted that the funeral establishment in question had closed and that there was insufficient evidence to suggest that the Board has jurisdiction over the now-closed establishment. Mr. Brown then invited a motion on the Committee's recommendations.

Upon a motion by Mr. McCormick and a second by Mr. Saunders, the Board voted unanimously by roll call to approve the Disciplinary Committee Report as presented.

Mr. Brown recessed the Business Session at 9:56 a.m. to announce that the Board would convene a public hearing at 10:00 a.m. pertaining to 21 NCAC 34B .0309, License Renewal Form, for Amendment. Mr. Brown adjourned the Public Hearing at 10:19 a.m. No public comment was offered.

Mr. Brown then recognized Mr. Blake and Mr. Herndon for a report on the recent meeting of the NC Crematory Authority.

NC Crematory Authority

It was reported that the NC Crematory Authority met on December 22, 2020, to elect officers for 2021 and to discuss the impact of the coronavirus pandemic on cremation rates, procedures and services in North Carolina. It was reported that the new officers are Chris Headley, Chair; Craig Tomczak, Vice Chair; and Steve Hundley, Secretary. Authority members also spent time discussing cremation trends in the state and the importance for the proper understanding and application of cremation statutes and rules with a particular emphasis on the Cremation Authorization Form. Mr. Blake and Mr. Herndon closed their presentation by reporting that the Authority expressed a desire for two meetings in 2021 with one of the two a joint meeting with the Board. Mr. Herndon noted that there were no recommendations from the Authority and that the report he and Mr. Blake provided was for the Board's information.

Mr. Brown then asked Mr. Davis to present the Executive Director's Report.

Executive Director's Report

Mr. Davis reported on the following topics:

- Summarized the 2021 renewals to date. Noted that license renewal outpacing 2020 by significant percentage.
- Announced that the Annual Meeting of The International Conference of Funeral Service Examining Boards would meet virtually and that Board members would receive a link for complimentary registration.
- Reported that the NC General Assembly convened for the long session at 12 noon.
- Reported that an insurance provider of preneed policies had asked about the feasibility of producing bilingual preneed contract forms – said that staff would investigate further.
- Reported that Governor Cooper extended Executive Order 181 through January 29, 2021 – highlighted key provisions including exemption for funeral services from limits on mass gatherings.

Board members discussed the provisions of the Executive Order pertaining to exemptions of funeral services by noting the difficulty in explaining to families the imposition of caps on visitations but not on funeral services. Members discussed the growing incidence and need for off-site temporary storage of decedents as a result of the coronavirus pandemic in North Carolina. The discussion centered on the need for regulating such refrigerated storage facilities, and Mr. Lisenbee noted that any such regulation would require rulemaking which should to every extent possible align the requirements for refrigerated storage between crematories and funeral establishments. Ms. Lee offered to draft an appropriate administrative rule to address the Board's concerns, and she indicated that Mr. Lisenbee would be part of that effort. She stated that she and Mr. Lisenbee would report back to the Board in February after the Laws, Rules and Legislation Committee had reviewed the draft.

Mr. Brown resumed the meeting and asked Ms. Lee to present the Legal Report.

Legal Report

Ms. Lee reported the following metrics:

Current Active Cases: 50

Pending Investigation: 22

Pending Review by Disciplinary Committee: 0

Pending Dispositive Action: 11

Pending Hearing: 15

Post-Hearing: 0

Other: 2

New files opened since last Board meeting: 15

Notices of Hearing sent since last Board meeting: 3

Consent Orders received since last Board meeting: 1

Cases reviewed by Disciplinary Committee since last Board meeting: 11

PRENEED RECOVERY FUND CLAIMS

Current Active Preneed Recovery Fund Claims: 2

Pending Investigation: 0

Pending Dispositive Action: 2

Preneed Recovery Fund Claims received since last Board meeting: 1

Preneed Recovery Fund Claims re-opened since last Board meeting: 0

Preneed Recovery Fund Claims reviewed by Committee since last Board meeting: 2

Administrative Rulemaking

Ms. Lee continued her report by offering information on the Board's options for proceeding with administrative rulemaking on 21 NCAC 34B .0308, Renewals Notices and 21 NCAC 34A .0128 Waiver. She noted that the Board could proceed with amending .0308 allowing for annual renewal notices to be disseminated electronically and that the Board could proceed with permanent adoption .0128 which enables the Board to waive an administrative rule not otherwise statutorily required. Discussion ensued. Mr. Brown invited a motion on each rule.

Upon a motion by Mr. Herndon and second by Mr. McCormick, the Board voted unanimously by roll call vote to direct General Counsel to proceed with rulemaking for amending 21 NCAC 34B .0308, Renewals Notices.

Upon a motion by Dr. Lyons and a second by Mr. McCormick, the Board voted unanimously by roll call vote to direct General Counsel to proceed with rulemaking for the adoption of 21 NCAC 34A .0128, Waiver, as a permanent rule.

Ms. Lee continued by reporting that she was submitting two recommendations for the Board's consideration and decision pertaining to the dissolution of mutual burial associations. Ms. Lee presented pertinent facts and information pertaining to M20-0130, Order of Dissolution and Liquidation in the matter of Warren-Miller-Johnson MBA, Inc., and noted that the MBA has ceased to operate.

Mr. Brown invited a motion.

Upon a motion by Mr. Blake and a second by Dr. Lyons, the Board voted unanimously by roll call vote to dissolve and liquidate the Warren-Miller-Johnson MBA, Inc.

Ms. Lee then presented a recommendation for M21-0002 in the matter of Huff Mutual Burial Association, Inc. Ms. Lee presented pertinent facts and information regarding the recommendation and noted that Association members had voted to voluntarily dissolve the Huff MBA.

Mr. Brown invited a motion.

Upon a motion by Mr. McCormick and a second by Mr. Watson, the Board voted unanimously by roll call vote to dissolve and liquidate the Huff Mutual Burial Association, Inc.

Mr. Brown then stated that the Board would convene in closed session to deliberate on a pending disciplinary matter.

Upon a motion by Mr. Blake and second by Mr. McCormick, the Board voted unanimously by roll call vote to convene in closed session to consider a disciplinary matter protected by attorney-client privilege pursuant to NCGS 143-318.11.

Mr. Brown declared a brief recess at 11:03 and reconvened the Board at 11:13 for closed session.

Upon a motion by Mr. Blake and a second by Mr. Herndon, the Board voted unanimously by roll call vote to reconvene in open session.

Mr. Brown invited any motions pertaining to the disciplinary matters discussed in closed session.

Upon a motion by Mr. Blake and a second by Mr. Saunders, the Board voted unanimously by roll call vote to accept a Consent Order in case number C20-0024 in the matter of Purcell Funeral Home & Cremation Service.

Mr. Brown resumed the meeting and asked for any **Old Business** items. None were offered. He then asked members for any **New Business** items.

Mr. Blake expressed concern that the NC Vaccination Plan roll-out was inconsistent in terms of its outreach to funeral service workers who were identified in Phases 1a and 1b of the state's vaccine administration program. He noted that he had heard from a number of licensees who reported difficulty in receiving the vaccine or who had not been contacted about the vaccination program by their local health authorities. He asked if staff would investigate the issue and suggest appropriate actions. Mr. Davis noted Mr. Blake's concerns and said that he would draft a communication from the Board to licensees which could be disseminated by email. Brief discussion ensued.

Mr. Brown asked if there was any other business before the Board. Hearing none, he invited a motion for adjournment.

Upon a motion by Mr. McCormick and a second by Mr. Blake, the Board voted unanimously by roll call vote to adjourn the meeting.

Affirmation:

Don Brown

Don Brown, President

Steven L. Lyons

Steven Lyons, Secretary

April 14, 2021

Date