

NORTH CAROLINA BOARD OF FUNERAL SERVICE

Minutes
March 9, 2022, Board Meeting

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting on March 9, 2022, at the NC Board of Funeral Service office suite at 1033 Wade Avenue, Suite 108, Raleigh, NC 27605.

Present: Chris Watson, President; Steven Lyons, Vice-President; Thomas Hilderbrand, Secretary; Don Brown; Mark Blake; Steve Herndon; LeShekia Coleman; and Darrell McCormick. Mr. Jansen was absent.

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 Director, NC Funeral Directors Association

Mr. Watson called the meeting to order at 9:09 a.m. and led members and staff in a recitation of the Pledge of Allegiance followed by the invocation which Dr. Lyons offered. He proceeded by reading the Statement of Ethics and asked if any members would be recusing themselves. Mr. Hilderbrand said that he would be recused from voting on disciplinary matter M21-0108. Mr. Watson then asked if any guests were present and if they wished to offer any public comment. Mr. Chase Noble introduced himself as Executive Director of the NC Funeral Directors Association.

Mr. Watson continued and asked Mr. Hilderbrand to present the minutes from the February 9, 2022, Board meeting.

Approval of Minutes

Mr. Hilderbrand reported that Board staff had sent the minutes to each member for their review prior to the meeting. He asked if there were any questions or changes to the minutes. Hearing none, he offered a motion for approval of the minutes.

Upon a motion by Mr. Hilderbrand and a second by Mr. Blake, the Board voted to adopt the February 9, 2022, minutes as presented.

Mr. Watson recognized Mr. Blake for 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 Monday, March 7, 2022, with all members present. Staff in attendance were Mr. Stephen Davis, Executive Director, and Ms. Amy Acord, Assistant Director. Mr. Blake said that the Committee reviewed and

discussed the financial reports for the period ending January 2022, and he recognized Mr. Davis for a summary of the reports.

Mr. Davis began by summarizing the Statement of Net Position and reporting that the Board's net position continues strong in terms of operating capital in reserve as shown under the Unrestricted Fund Balance. He also noted that none of the reported balances on the Statement of Net Position created any concerns and all were in expected, acceptable ranges by comparison to the prior reporting period as well as the same period in 2021. He stated that the Preneed Recovery Fund balance at \$477,831.52 is slightly less than the balance for the prior reporting period which was \$486,721.45. He explained that the difference likely reflected claims paid during the reporting period pursuant to the Board's approval. He noted that the Trust Fund balance for the same reporting period in 2021 was \$379,873.70. Mr. Davis highlighted the balance shown for Cremation Fees Receivable and said that the \$59,350.00 shown for the last reporting period had been posted to Revenues which created a zero balance for the current reporting period. Mr. Davis concluded his summary by explaining the Fund Balance – Recovery Fund which shows the Fund's profitability since its inception.

Mr. Davis continued by summarizing the Statement of Revenues and Expenses for the period ending January 2022. He reported that Total Revenue collected thus far in the fiscal year was \$566,790.08 which derived primarily from individual license and establishment permit renewals. He said that this balance represented 37.5% of the projected revenue for FY2022 compared to \$593,969.83 collected for the same reporting period in 2021. He reminded the Committee that the Cremation Fees Receivable balance shown on the Statement of Net Position was \$59,350 which would be added to Revenue upon deposit which would then increase the Revenue collected as of January 2022 to \$626,140.08. Mr. Davis said that the YTD % of Budget Used was at 7.1% which was below the percentage that would be expected for 1/12th of the fiscal year. The expected percentage for the period ending January would be 8.3%. He noted that he and Ms. Acord would be working with the Board's auditors and accountants to revise the Chart of Accounts and to make further realignments where necessary in the budget for FY2022 based on increased revenue shown at the end of FY2021.

Mr. Blake invited any questions or comments. After brief discussion, Mr. Blake moved for the approval of the financial reports for the period ending January 2022.

Upon Mr. Blake's motion, Mr. Herndon offered a second. The Board voted unanimously to approve the January 2022 financial reports as presented.

Mr. Watson thanked Mr. Blake and Mr. Davis for their comments and continued the meeting by asking Mr. Hilderbrand to present the Preneed Committee report.

Preneed Committee Report

Mr. Hilderbrand reported that the Preneed Committee met by conference call on March 7, 2022, with all members present to discuss the following agenda items:

Discussion No. 1: Review of Pending Preneed Recovery Fund Application

P22-0001 Summary: The Preneed Committee recommends Preneed Recovery Fund Claim # P22-0001 in the amount of \$5,127.57.00 be approved

Preneed Recovery Fund Applicant submits a Preneed Recovery Fund Claim on behalf of himself.

On or about June 2007, Applicant paid cash to a formerly-licensed preneed establishment (“PN Establishment”) in the amount of \$5,127.57 toward preneed funeral services and merchandise. The PN Establishment provided Applicant with a statement of goods and services selected and a preneed receipt, both showing a paid amount of \$5,127.57. The PN Establishment did not file a preneed contract for Applicant with the Board. In February 2009, the Board issued a Final Agency Decision, revoking the preneed establishment permit of the PN Establishment for, among other things, misappropriation of preneed money.

Recommendation: Recommend that Preneed Recovery Fund Claim # P22-0001 in the amount of \$5,127.57 be approved.

Discussion No. 2: Request for Designation as Substitute Preneed Licensee under N.C. Gen. Stat. § 90-210.68(e)

Members discussed a request from a preneed funeral establishment (the “Requestor”) to be designated as the substitute preneed licensee, per N.C. Gen. Stat. § 90-210.68(e), to serve as trustee over the preneed contracts previously held by a formerly-licensed preneed establishment. The Requestor is not the preneed establishment that is geographically closest to the previous location of the formerly-licensed preneed establishment but is located within three miles therefrom.

Recommendation: Offer the preneed establishment that is geographically closest to the previously location of the formerly-licensed preneed establishment the opportunity to serve as the substitute preneed licensees of said contracts. If that offer is not accepted within ten (10) days from the date of offer, designate the Requestor as substitute preneed licensee. Send correspondence to all preneed consumers, advising them of their statutory right to select a substitute preneed licensee of their choosing, pursuant to N.C. Gen. Stat. § 90-210.63.

Mr. Hilderbrand invited questions or comments from Board members. Brief discussion ensued.

Mr. Hilderbrand moved that the Preneed Committee Report be approved as presented. Dr. Lyons seconded the motion, and the Board voted unanimously to approve the Committee recommendations as presented.

Mr. Watson then recognized Mr. Herndon for the Disciplinary Committee report.

Disciplinary Committee Report

Mr. Herndon stated that the Disciplinary Committee met on Friday, March 4, 2022, to consider and discuss cases and recommendations from General Counsel Catherine Lee for the following cases:

Summary Dismissal

C22-0010

Dismissals

C21-0013	C21-0133	C21-0135	C22-0001	C22-0004	C22-0006
C22-0007	C22-0008	C22-0009			

Letters of Caution

C21-0012

C21-0134

C22-0003

C22-0005

M22-0006

M22-0007

Notice of Hearing

C21-0131

Other

M22-0009

Mr. Herndon invited questions or comments from Board members. Brief discussion ensued. Mr. Blake asked about the circumstances associated with C21-0013 and for clarification of the allegations. Ms. Lee offered further details. Mr. Blake and Dr. Lyons expressed concern in cases where the Office of the Chief Medical Examiner has misidentified a decedent. Discussion continued with questions from Mr. Blake concerning M22-0009 and the circumstances leading to the staff recommendation to deny the application for a Removal and Transportation permit. Mr. Davis offered additional clarification regarding the application and explained that the applicant had submitted two different applications over a period of several months. Ms. Lee noted that the staff recommendation was consistent with prior cases when applicants did not disclose criminal history.

Mr. Herndon then offered a motion for approval of the Disciplinary Committee report.

Upon Mr. Herndon's motion, Mr. Hilderbrand offered a second. The Board voted to adopt the recommendations from the Disciplinary Committee as presented.

Mr. Watson continued the meeting and recognized Mr. Davis for the Executive Director's report.

Executive Director's Report

Mr. Davis presented the following items to the Board for information and discussion:

- A conservation company known as Bluestem has acquired 87 acres in Orange County for the development of a green burial site. Proponents for the site cited the environmental impact resulting from 150 years of embalming and material-heavy burials. The N&O article also cited significant cost savings to consumers choosing green burial over both cremations and earth burials.
- The Conference Annual Meeting was productive and informative. Topics included discussions on:
 - Respect of human remains and assuring dignity for decedents
 - District Meetings
 - Review of regulatory and legal matters by Legal Counsel for the Conference
 - Administrators Forum

Impact of COVID on operations and policies

Refrigeration and storage of decedents during COVID

Board Consolidations

Organic reduction and green burials

Internet providers and third-party sales

- Board Member Training
 - Delegate Grant – paid for ED’s flight and hotel
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- NFDA Model Reciprocity Laws

 - NCBFS will be sending a link to all licensees for a Job Task Analysis survey which occurs every 5-7 years to develop content for National Board Exams.

 - Plan to meet next week with James Bullard from Fayetteville Technical Community College – he is the new Chair of the Funeral Service Education Department

Mr. Blake reiterated a concern about the rising incidence of violations of the Board’s statutes and rules pertaining to cremations through disciplinary proceedings. He expressed hope that Mr. Bullard will be made aware of these concerns in preparing prospective candidates for licensure aware of North Carolina cremation laws. Mr. Watson then posed a question to Mr. Lisenbee regarding the Board-sponsored preneed classes for that are mandatory for some licensees receiving a Letter of Caution or other discipline. Brief discussion ensued regarding the preneed course and the number of continuing education hours that a licensee may accrue. Mr. Watson noted his concern about the increases in disciplinary cases involving non-compliance with the Board’s preneed program requirements expressed in statute and administrative rule. Brief discussion ensued including Mr. Hilderbrand’s question about the content of the NCBFS Compliance Guide’s section pertaining to preneed requirements. Ms. Lee said that she would draft amended rules if that was the Board’s direction and work with Board staff in submitting a proposal to the appropriate committee for review and discussion. Mr. Watson invited a motion.

Upon a motion by Mr. Hilderbrand and a second by Mr. Blake, the Board voted unanimously to request that Board staff develop a proposal for amending selected preneed administrative rules and submit them to the appropriate Board committee for further discussion.

Mr. Watson then recognized Ms. Lee for the Legal Report.

Legal Report

DISCIPLINARY MATTERS

Current Active Cases: 40

Pending Investigation: 10
Pending Review by Disciplinary Committee: 0
Pending Dispositive Action: 17
Pending Hearing: 12
Post-Hearing: 0

Other: 1

New files opened since last Board meeting: 8

Notices of Hearing sent since last Board meeting: 3

Consent Orders received since last Board meeting: 0

Cases reviewed by Disciplinary Committee since last Board meeting: 17

PRENEED RECOVERY FUND CLAIMS

Current Active Preneed Recovery Fund Claims: 2

Pending Investigation: 1

Pending Dispositive Action: 1

Preneed Recovery Fund Claims received since last Board meeting: 2

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

Preneed Recovery Fund Claims reviewed by Committee since last Board meeting: 1

Mr. Watson thanked Ms. Lee for her report to the Board. Mr. Blake commended Ms. Lee for her management of the Board's disciplinary proceedings and caseload and noted that under her leadership the caseload is significantly lower than in the past. Ms. Lee acknowledged Mr. Blake's recognition. She then updated members on a meeting of the Joint Legislative Administrative Procedures Oversight Committee and their on-going review of Occupational Licensing Boards. She noted the Committee's past discussions concerning merging occupational licensing boards or placing them organizationally under an "umbrella" organization to achieve efficiency and economy. Brief discussion ensued. He then asked for any Old Business and New Business items.

Old Business:

There were no Old Business items offered.

New Business:

Mr. Davis alerted the Board that Rep. Jamie Boles plans to convene a meeting of stakeholders and legislators to review the progress to date in the implementation of NC DAVE and the NC Electronic Death Registration System. He reported that the NC Medical Board and the NC Department of Health and Human Services would be in attendance along with the NC Board of Funeral Service and the two professional associations.

Mr. Watson thanked staff and Board members for their discussion and attention to issues brought before them in the Business Session. He stated that the Board would convene in closed session to consider matters requiring attorney-client confidentiality pursuant to NCGS 143-318.11 after a brief recess.

Upon proper motion and vote, the Board convened in closed session to deliberate on pending legal matters subject to attorney-client privilege.

Upon proper motion and vote, the Board re-convened in open session. Mr. Watson invited any motions pertaining to the deliberations in closed session.

Upon a motion by Mr. Hilderbrand and a second by Ms. Coleman, the Board voted unanimously by roll call to accept the proposed Consent Order in settlement of Case Number M21-0099, Roberts Funeral Service, Inc. and Anthony B. Roberts, Respondents.

Mr. Watson continued the meeting and announced that the Board would hear oral arguments in a disciplinary hearing scheduled to begin at 11:00 a.m.

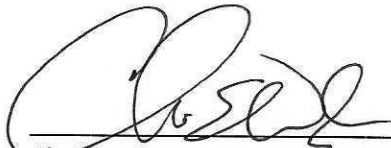
Upon proper motion and vote, the Board voted to convene in closed session to deliberate on the matter in Case Number M21-0108, In Re Wilbert McLaughlin.

Upon proper motion and vote, the Board voted to re-convene in open session. Mr. Watson invited any motions pertaining to matters discussed in closed session.

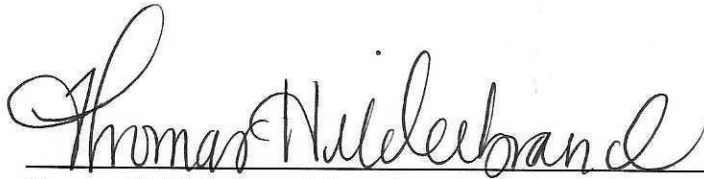
Upon proper motion and vote, the Board voted unanimously by roll call vote to grant Respondent's application for a Removal and Transportation permit in the matter of M21-0108, In Re Wilbert McLaughlin.

Without further business before the Board, Mr. Watson adjourned the meeting upon proper motion and vote.

Affirmation:



Christian E. Watson, President



Thomas T. Hilderbrand, Secretary

April 13, 2022

Date