

NORTH CAROLINA
BOARD OF FUNERAL SERVICE



August 9, 2023, Board Meeting

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting on August 9, 2023, at the NC Board of Funeral Service office suite at 1033 Wade Avenue, Suite 108, Raleigh, NC 27605.

Present: Dr. Steven Lyons, President; Thomas Hilderbrand, Vice-President; Darrell McCormick, Secretary; Steve Herndon; Chris Watson; LeShekia Coleman; Dr. Kimberly Kelsey; and Richard Hinchey. Roger D. Barnes joined the meeting as a prospective non-voting public member appointed by the NC Senate.

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

Dr. Lyons called the meeting to order at 9:05 a.m. and led members and staff in a recitation of the Pledge of Allegiance followed by the invocation which Mr. Barnes offered. He then read the Statement of Ethics and asked if any Board members had any conflict or appearance of conflict of interest. Mr. Hilderbrand stated that he would be recused from voting on Board Case Number C23-0035/M22-0017. Mr. Watson said he would be recused from voting on M23-0038/C23-0046.

Dr. Lyons proceeded by asking if any guests were present and if they wished to offer any public comment. No guests were in attendance.

Dr. Lyons continued and recognized Mr. McCormick for the presentation of the minutes from the June 14, 2023, meeting. Mr. McCormick stated that staff had provided the minutes prior to the meeting for review and invited any changes or amendments. None were offered. Dr. Lyons invited a motion for approval.

Upon a motion by Mr. McCormick and a second by Dr. Kelsey, the Board voted unanimously by roll call to approve the June 14, 2023, minutes as presented.

Dr. Lyons continued and recognized Mr. Herndon for the Disciplinary Committee report.

Disciplinary Committee

Mr. Herndon said that the Disciplinary Committee met on July 19 and 21, 2023, to consider the following disciplinary cases along with recommendations and rationale for each case number. Mr. Herndon reminded members that Mr. Hilderbrand was recused from voting on Case Number C23-0035 and Mr. Watson was recused from voting on M23-0038.

DISMISSALS

C23-0028	C23-0030	C23-0033	C23-0039	C23-0041	C23-0042
C23-0046	C23-0048	C23-0054			

LETTER OF CAUTION

C23-0034	C23-0037	M23-0038
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NOTICE OF HEARING

C23-0035

OTHER

M23-0009

M23-0025

Mr. Herndon invited any questions or comments concerning the cases he presented in the Disciplinary Committee report. He then offered a motion for approval.

Upon Mr. Herndon's motion, Ms. Coleman offered a second. The Board voted in the majority to accept the recommendations presented by the Disciplinary Committee. Mr. Hilderbrand did not vote on Board Case Number C23-0035/M22-0017. Mr. Watson did not vote on Board Case Number M23-0038/C23-0046.

Dr. Lyons continued and recognized Mr. Davis to offer a summary of the Finance and Personnel Committee report.

Finance and Personnel Committee

Mr. Davis began by reminding the Board that the financial reports for the period ending June 30, 2023, represented the first two quarters of FY2023 which completes 50% of the fiscal year. He then reported that the Statement of Net Position continued to demonstrate that the Board enjoys a strong, robust net position with approximately eleven (11) months of operating capital in reserve. He noted that the Preneed Recovery Trust Fund was reported at \$621,816.73 as of June 2023 which compared to \$469,016 for the same period in 2022. He said that the Trust Fund was accumulating funds consistently at about \$120,000 per year since 2019. Mr. Davis continued and noted that the Board's Total Assets were greater than for the same period in 2022, and he reported that Mr. Watson said during the Committee meeting that he had noted a slight monthly decline in the reported Assets. Mr. Davis acknowledged his observation and said that the difference could be attributed to fluctuations in depreciation and other Fixed Assets as well as differences in Accounts Payable from one month to the next. He reported to the Committee that staff would closely monitor the Board's net position in terms of Assets and Liabilities going forward. Mr. Davis pointed out that the Statement of Net Position now includes a balance for Right-to-Use Lease Liability which results from the auditors' adoption of GASB Statement #87 for FY2023 as they reported earlier in the year following the annual audit of the Board's financial statements. Mr. McCormick offered an explanation of the Right-to-Use Lease Liability noting that it represented anticipated costs for leased equipment. Mr. Davis concluded his summary and invited any questions or comments.

Mr. Davis continued and summarized the Statement of Revenues and Expenses. He reminded members that the budget proposed for FY2023 included a shift of items previously reported under Other Revenue to License Fee Revenue to properly align reported revenues. Mr. Davis said that the Total Revenue for the period ending June 2023 was at 68.5% compared to 72% for the same period in 2022. He restated that the comparison between these two years was a difficult one given the realignment he had just explained. He reported that while overall revenue collections were slightly less than for the same period in 2022, he said that he had not observed any indicators of problems or shortfalls in revenue collections. He noted that the Cremation Fees were \$12,200 less for the June 2023 reporting period than for the same period in 2022, but he reported that Preneed Contract Fees were greater than those for 2022 at \$200,305 and \$195,665 respectively. He recognized that there will always be fluctuations in revenue collections during the Fiscal Year and that staff would closely monitor these collection rates for the next two quarters. Brief discussion ensued.

Mr. Davis continued and said that the benchmark for operating expenses as a share of revenue projected at the end of the 2nd Quarter was 50%. He noted that the Board's operating expenses for the first six months of the fiscal year were 50.5% of the total budget amount which is the rate anticipated. He said that the rate of expenditures was 51% for the same period in 2022. Mr. Davis concluded his summary by reporting that staff would closely monitor the rate of operating expenses for the next two (2) quarters and would alert the Committee should unusual or concerning trends be detected.

Dr. Lyons thanked Mr. Davis for his summary of the financial reports. He then invited a motion from the Committee members.

Upon a motion by Mr. McCormick and a second by Mr. Watson, the Committee voted unanimously to approve the June 2023 Financial Reports.

Dr. Lyons then recognized Mr. Davis for additional comments to the Board. Mr. Davis said that the health insurance options available to employees are much improved from the offerings in 2018 and prior to 2018, but he said that he remained concerned that the out-of-pocket expenses through co-pays and deductibles are high but not necessarily out of alignment with insurance products in the marketplace. He said that he and Ms. Acord have addressed these concerns with the Board's insurance provider, Parrot Insurance Agency and requested quotes to compare costs from other providers. The agency responded that securing quotes would be difficult because the Board is considered a small employer within the insurance industry and would not likely offer competitive quotes. Mr. Davis reported that 8 of 13 staff are currently enrolled in a Health Savings Account which the Board's funds for each employee at the rate of \$1,000 per year. He further noted that 2 of 13 staff do not participate in the Board health insurance program, and he confirmed that 3 of 13 staff are enrolled in a Blue Cross/Blue Shield plan.

Mr. Davis expressed concern that lower cost insurance products for employees is not viable given the current environment within the insurance industry, and he indicated that employees may wish to shop in the market place for more cost-effective options. He said that he was raising these concerns because he was aware that some employees are facing high costs for health care coverage given their health conditions and that it was important for the Committee to know efforts in past years to seek lower costs for employees. Brief discussion ensued.

Mr. Hilderbrand asked Mr. Davis to report on the current status of the proposal to transition the Board's current telephone system to a more efficient IP Phone System which integrates the Board's phones with the internet. Mr. Davis said that the NC Department of Information Technology must release the Board's telephone numbers to a new vendor and that they would consider a request from the Board to allow this transition.

Dr. Lyons thanked Mr. Davis for his summary. He then recognized Dr. Kelsey for the Continuing Education Committee report.

Continuing Education Committee

Dr. Kelsey reported that the Continuing Education Committee met on August 7, 2023 with all members present. She reminded the Board that Mr. Jansen, the former Chair, had resigned in June and that Mr. Davis served as the Committee's moderator. She continued her report and noted that the Committee heard a summary from Mr. Davis of an initiative begun in 2018 to streamline the Continuing Education program. She explained that the intent of the initiative was to improve where possible and feasible the Board's procedures that govern the award of CE credit to licensees. She said the Board in early 2019 agreed to replace the former 3-part card for recording attendance with a digital-based Attendance Sheet that would contain the same information as the card but that it would be a continuous listing of attendees who would provide a printed name, license number, time in and time out. She explained that these attendance forms

would be signed by an instructor or course provider as a certifier. Discussion ensued. Mr. Davis questioned the need for a signature since the Attendance Sheets are now certified as to those attending. Mr. McCormick affirmed his belief that the signature is necessary and important in confirming attendance and actual sign-in. Discussion ensued, and Dr. Kelsey said that the Committee was not recommending a deletion of the signature block on the Attendance Sheet but that the issue had been discussed among Committee members.

Dr. Kelsey then summarized each of the proposed forms which are consecutively numbered CE-1 through CE-9 and explained their purpose to Board members. She then asked Mr. Davis for any further comment he might want to offer. Mr. Davis noted that the current forms are outdated and cumbersome, and with the implementation in 2018 of iGov, the Board's licensing management system, there are now opportunities to amend the forms so that the information can be provided in digital format which facilitates communication of proposed CE courses between Board staff and CE sponsors. In describing the proposed forms, Mr. Davis noted that the CE-1 and CE-2 could be combined so that those applying as a non-accredited sponsor could simultaneously seek course approval. Brief discussion ensued. Dr. Kelsey said that a new combined form would likely be presented to the Board at a future Board meeting. Members agreed that proceeding with the proposed CE-1 and CE-2 as separate forms would make sense until staff can combine the two forms for the Board's consideration and recommendation at the next meeting. Board members briefly discussed the new forms and agreed that the Committee's recommendation for updating them was appropriate.

Upon a motion by Dr. Kelsey and a second by Mr. Herndon, the Board voted unanimously to approve the proposed Continuing Education Forms CE-1 through CE-9 as presented.

Dr. Lyons expressed thanks for the Committee's work in evaluating the Continuing Education program. He then invited Mr. Hilderbrand to present the Preneed Committee report.

Preneed Committee Report

Mr. Hilderbrand reported that the Preneed Committee convened on July 26, 2023, with all members present to hear staff recommendations for the following claims against the Preneed Recovery Trust Fund:

P23-0001 P23-0003 P23-0004 P23-0005

Mr. Hilderbrand presented a summary of each claim along with a recommendation for each. He noted that the Committee recommended approval of \$2,713.71 for P23-0001; \$2,015.00 for P23-0003; \$2,025.00 for P23-0004; and \$4,700.00 for P23-0005. Mr. Hilderbrand noted special circumstances associated with the recommendation for P23-0005 and recognized Ms. Lee, General Counsel, for additional comment and explanation. Ms. Lee noted that the initial claim by the applicant was for \$3,917.70 but that Board staff's investigation into the claim showed that payment in the amount of \$4,700.00 and interest in the amount of \$3,111.24 had been deposited into the claimant's preneed account since August 1996. Discussion ensued. Board members agreed to modify the Preneed Committee's recommendation for P23-0005 to approve a reimbursement of \$7,811.24, contingent upon submission of an amended Preneed Recovery Fund application by the applicant.

Mr. Hilderbrand continued his report to the Board and stated that there were two requests to revoke an irrevocable preneed contract pursuant to NC General Statute 90-210.65(e)(1). He explained that in both cases the consumers had moved out-of-state and executed new contracts for an amount in excess of the funds paid toward the North Carolina preneed contract. Mr. Hilderbrand said that these requests would be subject to the Executive Director's approval based on delegated authority from the Board for such approvals.

Without further discussion or questions, Dr. Lyons invited a motion for action on the Preened Committee's recommendations.

Upon a motion by Mr. Hilderbrand and a second by Ms. Coleman, the Board voted unanimously to approve the Preened Committee's recommendations as presented.

Dr. Lyons then recognized Mr. Davis for the Executive Director report.

Executive Director Report

Mr. Davis reported the following items to the Board:

- WRAL-TV broadcast an investigative report on July 13, 2023, regarding the misappropriation of preneed funds by Rachels Family Funeral Home in Fuquay-Varina. Mr. Davis said that the broadcast focused on consumer awareness and recognized the Board's role in protecting consumer interests through the Preened Recovery Trust Fund. Mr. Davis said that the TV station included a written transcript of the broadcast on its website which included prepared comments he had sent to the producer and which provided additional details about the Board's focus on consumer protection and preneed sales licensee education to minimize incidents like those reported by WRAL-TV.
- I have received a number of calls from licensees regarding a scam currently in operation across North Carolina, and I included a fraud alert based on information from the Federal Trade Commission in the Summer 2023 edition of the Board Newsletter. Scammers are posing as licensees and threatening to cancel scheduled funeral services for decedents unless family members pay additional funds for funeral goods and services. We have advised licensees to post fraud alerts on their establishment websites.
- Although this item is specific to Wake County, I wanted to let you know of a meeting planned on August 24, 2023, with the Wake County Director of Emergency Management Services to address concerns raised so far by 8 funeral establishments in Wake County with regard to the Wake County Holding Facility. This facility was recently announced as a morgue operation to hold decedents from the Office of the Chief Medical Examiner upon completion of autopsies and death investigations. Wake County hired a licensee of the Board to manage the facility, and several Wake County licensed funeral establishments have questions and concerns regarding the procedures for the intake and release of decedents.
- I recently received a 6-month report of the National Board exam scores for North Carolina, and I am sharing this information for your awareness and information. The handout I am providing you shows the pass rate for the NBE-Arts is 57% and the fail rate is 43%. The pass rate for the NBE-Sciences is 42%, and the fail rate is 58%. The national pass rate for the NBE-Arts by comparison is 78.7% and the fail rate is 21.3%. The national pass rate for the NBE-Sciences by comparison is 68.1% and the fail rate is 31.9%.
- I received notice from The Conference that they have launched a Candidate Portal on their website which offers one-stop "shopping" for exam candidates so that they can review relevant information and learn procedures for taking the NBE-Arts or NBE-Sciences.

Mr. Davis then recognized Ms. Acord and Mr. Lisenbee for answering any questions regarding the New Licensure and Inspections Reports. Without further discussion or questions, Dr. Lyons recognized Ms. Lee for the Legal Case Report.

Legal Case Report

Ms. Lee reported the following information concerning legal cases to the Board:

DISCIPLINARY MATTERS

Current Active Cases: 70

Pending Investigation: 35
Pending Review by Disciplinary Committee: 0
Pending Dispositive Action: 15
Pending Hearing: 11
Post-Hearing: 0
Other: 9

New files opened since last Board meeting: 30

Notices of Hearing sent since last Board meeting: 9

Consent Orders received since last Board meeting: 4

Cases reviewed by Disciplinary Committee since last Board meeting: 15

PRENEED RECOVERY FUND CLAIMS

Current Active Preneed Recovery Fund Claims: 7

Pending Investigation: 3
Pending Dispositive Action: 4

Preneed Recovery Fund Claims received since last Board meeting: 7

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

Preneed Recovery Fund Claims reviewed by Committee since last Board meeting: 4

Ms. Lee then reported to the Board that she had received a request for voluntary dissolution on behalf of the McEwen Mutual Burial Association in Monroe, NC proposing an effective date of August 1, 2023. She noted that the request was properly executed and was consistent with the Board's practices and procedures governing the voluntary dissolution of mutual burial associations.

Ms. Lee invited any questions or comments regarding her report. Dr. Lyons thanked Ms. Lee for her diligence and effectiveness in managing the Board's legal matters. He then invited a motion pertaining to the proposed dissolution of the McEwen mutual burial association.

Upon a motion by Mr. McCormick and a second by Mr. Watson, the Board voted unanimously to approve the Request for Voluntary Dissolution of the McEwen Mutual Burial Association of Monroe, North Carolina, effective August 1, 2023.

Dr. Lyons continued the meeting and asked for any Old Business items.

Old Business

Mr. Davis said that there was an issue that the Board had discussed at the June 14, 2023, meeting but tabled for further consideration at the August 9, 2023, meeting. He reminded members of the discussion regarding the award of continuing education credit to Board members when they attend a Board meeting. Dr. Lyons asked for a motion to bring the matter back to the Board for discussion and consideration.

Upon a motion by Ms. Coleman and a second by Mr. McCormick, the Board voted unanimously to continue discussion and consideration of a proposal for Board members to receive continuing education credit for Board meeting attendance.

Members proceeded with a discussion of the proposal to include comments by Mr. McCormick that Board members should receive CE credit for their work on the Board in adjudicating disciplinary cases; in setting and ruling on policy and procedural issues pursuant to statutory and administrative rule requirements; and in identifying meaningful strategies for the protection of consumer interests. Members discussed whether or not awarding CE credit would create ethical conduct issues, and Ms. Lee suggested that individual members of the Board could contact the State Ethics Commission for an opinion on whether or not they could receive such credit from an ethics perspective.

Mr. Hilderbrand noted that Board members could sign the attendance sheet should they wish to receive credit and asked Mr. Davis if they would receive CE credit if their name and license number was recorded on the attendance sheet. Mr. Davis affirmed that they would. Discussion continued. Members recognized that several Board members are exempt from the CE requirements necessary for annual license renewal. Others noted that they could easily acquire the necessary annual CE requirements even if they did not receive credit for attending Board meetings. Mr. Herndon noted that he and likely other Board members accepted their appointments to the Board without any presumption of receiving CE credit for their service. Members also noted that Board members are compensated for their attendance at each meeting which might be perceived as a conflict of interest should they also receive CE credit.

After additional brief discussion, Dr. Lyons invited a motion regarding the proposal for awarding CE credit to Board members for their attendance at monthly Board meetings.

Mr. McCormick moved that the Board award continuing education credit to eligible Board members for attending Board meetings the same as for all other eligible licensees. Ms. Coleman offered a second to his motion. The Board voted as follows:

Aye: Mr. McCormick

Nay: Mr. Hilderbrand; Mr. Watson; Mr. Hinchey; Mr. Herndon; Ms. Coleman; Dr. Lyons; Dr. Kelsey

Dr. Lyons thanked Board members for their discussion on such an important matter.

New Business

There was no new business brought before the Board.

Dr. Lyons then announced that the Board would convene in closed session to hear matters from General Counsel.

Upon a motion by Dr. Kelsey and a second by Ms. Coleman, the Board voted unanimously to convene in closed session to hear matters subject to attorney-client confidentiality pursuant to NCGS 143-318.11.

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

Dr. Lyons invited a motion on any matters discussed in closed session.

Upon a motion by Mr. McCormick and a second by Ms. Coleman, the Board voted unanimously to approve Consent Orders in settlement of the following matters:

*M20-0045, M21-0064, M22-0051, Betts & Son Funeral Home, Inc. and William Oliver Betts
M22-0031/M22-0052, Blakely's Funeral & Cremation Service, LLC and Henry Lee Chandler
M23-0034, Beach River Funeral Home, LLC
M23-0037, Michael Aaron Coffey
C23-0006, Blake Phillips Funeral Home, LLC, Vernon Blake Phillips
C22-0106, H. D. Pope Funeral Homes, Inc., Zelma Phyllis Green Stith*

Following the vote on matters heard in closed session, Dr. Lyons recessed the meeting until 9:00 a.m. on Thursday, August 10, 2023.

Thursday, August 10, 2023 Meeting of the NC Board of Funeral Service: Minutes

Attending: Dr. Lyons, Presiding Officer; Mr. Hilderbrand; Mr. Hinchey; Dr. Kelsey; and Mr. McCormick. Ms. Coleman joined remotely via Webex.

Board Counsel: Mr. Jeff Gray, Bailey & Dixon, PA

Board Staff: Stephen E. Davis, Executive Director; Ms. Amy Acord, Assistant Director; Ms. Catherine Lee, General Counsel; Mr. Brett Lisenbee, Compliance Officer; Ms. Debbie Hamm, Compliance Inspector; Mr. Paul Richardson, Preneed Program Manager.

Dr. Lyons called the meeting to order at 9:03 a.m. and announced that the Board would proceed with two disciplinary hearings: Board Case Number M23-0016, Christopher Nelson Wilfong; and Board Case Number M21-0015/M23-0010, William Harvey Knotts, II d/b/a Nelson Funeral Service and William Harvey Knotts, II. Dr. Lyons read the Statement of Ethics and noted that Mr. Herndon and Mr. Watson were recused since they are members of the Board's Disciplinary Committee.

Following the hearing in the matter of M23-0016, Christopher Nelson Wilfong, Dr. Lyons invited a motion for the Board to convene in closed session for deliberations.

Upon a motion by Mr. McCormick and a second by Dr. Kelsey, the Board voted unanimously by roll call to convene in closed session to deliberate in the matter of M23-0016, Christopher Nelson Wilfong.

Upon a motion by Dr. Kelsey and a second by Mr. McCormick, the Board voted unanimously by roll call to convene in open session.

Dr. Lyons then invited a motion pertaining to the deliberations in Board Case Number M23-0016.

Upon a motion by Dr. Kelsey and a second by Mr. McCormick, the Board voted unanimously by roll call to approve Christopher Nelson Wilfong's application for a resident traineeship in Funeral Directing effective September 1, 2023, subject to the following conditions:

- (a) Respondent must comply with the statutes and rules governing his traineeship;*
- (b) Respondent must submit a new Affidavit of Licensed Funeral Service Licensee from his proposed supervisor prior to the start of his resident traineeship; and*
- (c) Respondent must undergo a subsequent criminal background check when applying for full licensure with the Board*

Dr. Lyons recognized Mr. Hilderbrand for additional guidance from the Board. Mr. Hilderbrand affirmed the conditions that Dr. Kelsey presented in her motion for approval and added that Mr. Wilfong must complete his monthly traineeship reports timely; must notify Ms. Amy Acord, Assistant Director, for information and direction when needed during your traineeship; and must assure that the Affidavit for your Traineeship Supervisor is received by the Board prior to the proposed effective date of September 1, 2023.

Dr. Lyons resumed the meeting and announced that the Board would conduct a show cause hearing in the matter of M21-0095/M23-0010, William Harvey Knotts, II d/b/a/ Nelson Funeral Service and William Harvey Knotts, II, Respondents. Dr. Lyons noted that Mr. Herndon and Mr. Watson were recused since they form the Board's Disciplinary Committee. Dr. Lyons then read the Statement of Ethics.

Following the hearing, Dr. Lyons announced that the Board would convene in closed session to consult with Mr. Jeff Gray, Counsel to the Board, on procedural matters subject to attorney-client confidentiality pursuant to NCGS 143-318.11. Dr. Lyons noted that Mr. Knotts, Respondent, indicated in his Closing Statement to the Board a desire to settle the matter through consent. Dr. Lyons suggested that the Board's attorney in the matter, Ms. Lee, confer with Mr. Knotts in private to discuss settlement, and he noted that the Board would appreciate guidance from Mr. Gray, Board Counsel, on procedural issues should the Respondent consent to a proposed settlement.

Upon a motion by Mr. McCormick and a second by Mr. Hinchey, the Board voted unanimously by roll call to convene in closed session to consult with Counsel to the Board, Jeff Gray, in the matter of Board Case Number M21-0095/M23-0010.

Upon proper motion and second, the Board voted unanimously by roll call to reconvene in open session.

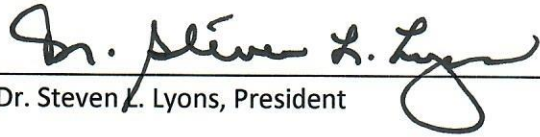
Ms. Lee reported that the Board staff and the Respondents were agreeable to a proposed settlement in principle, which would enable Mr. Knotts to voluntarily surrender all of his individual preneed sales licenses, as well as the preneed establishment permit #0890 for Nelson Funeral Service of Rockingham, NC. Ms. Lee further reported that the parties agreed that the establishment's preneed contracts would be transferred to an approved successor funeral home with common ownership to Nelson Funeral Service. Ms. Lee indicated that she would prepare a proposed consent order for execution consistent with these terms, for the Board's consideration at the next Board meeting. Dr. Lyons announced that the show cause hearing would remain open, pending presentation of an executed Consent Order. Dr. Lyons further announced that, if no Consent Order was executed prior to the next Board meeting, the Board would deliberate and render a final agency decision at that time.

Upon a motion by Mr. Hilderbrand and a second by Dr. Kelsey, the Board voted unanimously by roll call to continue the hearing in the matter of Board Case Number M21-0095/M23-0010 until September 13, 2023.

Dr. Lyons announced that the Board had concluded the scheduled hearings and asked if there was further business to come before the Board. Hearing none, he invited a motion for adjournment.

Upon proper motion and second, the Board voted unanimously to adjourn the meeting.

Affirmation:



Dr. Steven L. Lyons, President



Mr. Darrell McCormick, Secretary



Date