

OREGON MORTUARY AND CEMETERY BOARD MEETING

800 NE Oregon Street, Conference Room 140

Portland, OR 97232

MARCH 27, 2007

FINAL MEETING MINUTES – GENERAL SESSION

(Revised 05/14/2007)

Board Members Present:

Jim Ward, President
Laura Mather, Secretary / Treasurer
Robert Wentzel
Pamela Wachter
Joncile Martin
Kevin Korn
Michael Kimoto
Jon Cummings

Staff Members Present:

David Koach, Executive Director
Lynne Nelson, Compliance Manager
Bill Bennington, Investigator
Merill Cray, Investigator
Brandy Cochrane, Inspector
Carla Knapp, Office Manager / Licensing

Board Members Absent:

Kathy Wentz-Phelps, Vice President
Michael Harper
Diane Bassett-Pohl

Staff Members Absent:

Johanna Matanich, AAG

Guests Present:

Steve Schacht, SCI Oregon
Wally Ordeman, OFDA
Rick Bennett, AARP

Chad Dresselhaus, AFCTS
Nancy Felton, CGC / CAO
Nigel Jacquiss, Willamette Week

CALL TO ORDER:

President Ward called the general session of the Oregon Mortuary and Cemetery Board (Board) meeting to order at 9:08 am. After roll call, he directed that the Board go into executive session as authorized under ORS 192.660(2) (f), (h), (i) or (k). The executive session adjourned at 12:03 pm.

GENERAL SESSION:

The President called the general session of the Board to order at 12:05 pm. The President then requested that David Koach, Executive Director, proceed with Executive Director Issues.

A. Executive Director Issues

1. On-line License Renewal and Fee Payment Evaluation

Mr Koach reviewed the subject power point presentation in the Board packet. Because of the expense and our budget issues, we have not joined the initial group that will be implementing this process, but we are on a list of those who are evaluating it.

2. Affirmative Action (AA) Plans

Mr Koach asked if the Board had any questions regarding the letter from the Governor's Affirmative Action Office in response to the Board's AA Plan. Hearing none, he continued to the next agenda item.

3. Gold Star Accounting Certificate

Mr Koach explained that the subject Certificate is awarded to state agencies that provide accurate and complete fiscal year end information in a timely manner to the State Controller's Office. He said that the Board earned this award because of the outstanding service provided by the Board's accountant, Rebecca Jasso.

After general discussion, President Ward said that he would send a letter to Ms Jasso expressing the Board's commendation of her exemplary services in support of the Board's programs.

4. Sick Leave Usage Audit

Mr Koach said that this was for Board information.

5. Letter of Appreciation to Staff from Stephen Schacht, Director of Governmental Affairs, SCI Oregon Funeral Services Inc

Mr Schacht was gracious enough to recognize staff's effort via a letter of appreciation in the licensing process that was entailed when SCI merged with Alderwoods. Mr Koach said that staff appreciated the acknowledgement of that effort.

President Ward then called for a short break at 12:18 pm.

After reconvening general session at 12:31 pm, President Ward welcomed the members of the audience and reported that general session started earlier than the announced time. Mr Koach then reported that he covered some of the agenda items under Executive Directors Issues, material that he thought the public wouldn't be all that interested in. He asked if anyone had any questions.

Hearing none, President Ward then directed the Board to proceed.

B. Approval of Draft Meeting Minutes

1. General Session Meeting Minutes - January 23, 2007

President Ward asked the Board to review the draft meeting minutes for January 23, 2007 and report if they have any changes, additions or corrections. Hearing none, he asked if there was a motion on the floor to approve the draft general session meeting minutes as prepared.

Ms Mather so moved. Ms Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members: Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.

2. General Session Teleconference Meeting Minutes - February 5, 2007

President Ward then asked the Board to review the draft meeting minutes for February 5, 2007 and report if they have any changes, additions or corrections. Hearing none, he asked if there was a motion on the floor to approve the draft general session teleconference meeting minutes as prepared.

Ms Wachter so moved. Mr Korn seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.

C. President's Issues

1. Consumer-Industry Advisory Committee Letter of Progress; Inspection Checklists

President Ward recognized Jon Cummings, Chair and asked that he provide an update to the full Board.

Mr Cummings discussed the Committee's progress. The Committee is meeting pretty regularly and he anticipated that the Committee would have recommendations to the Board at the May 2007 Board meeting. In order to help the full Board understand the anticipated recommended changes to the inspection process, he asked that Board members remove the inspection checklists from their Board packet and keep so they could become more familiar with them prior to the May meeting.

David Koach then commented about the inspection checklists, as he thought they take on a meaning that was unintended. He said that the real inspection checklist is the rules and the statutes that fall within the Board's jurisdiction. He wanted to dispel any notion that the checklists are somehow a new rule, a new statute. He noted that there is also an element of consistency involved in those checklists so that every inspector goes out with the same checklist, and helps staff ensure that when they do cite a violation, that violation is tied to a specific rule or statute.

Afterwards, President Ward expressed his appreciation to the members of this newly formed Committee.

Ms Martin then thanked Rick Bennett for hosting the Committee meetings at the AARP office.

2. Letter to Representative Tom Butler

President Ward asked if anyone had any questions regarding the letter he sent to Representative Butler. Hearing none, he asked David Koach to proceed to the next agenda item.

3. Posting of Notices and Orders on Website

Mr Koach said that at the last legislative session a specific bill was passed authorizing agencies to post notices and order on their websites. Since then, many agencies have done so and he is now receiving inquiries about whether or not we are going to do it. This would be the disclosable notices of proposed disciplinary action, consent orders, default orders and final orders. Mr Koach said he wasn't aware of any requirement, statutory or otherwise to post them on the website, but was seeking guidance from the Board.

After discussion, President Ward asked if there was a motion. Ms Martin recommended and so moved that the Board start posting notices and orders on the Board's website. Mr Korn seconded. Discussion followed. After brief discussion, Ms Martin amended the motion to only post notices and orders from this date forward, not retroactive, except for orders that are issued after today's date, those orders should include the pertinent notice. All others were aye and the motion carried. Those voting in favor: Members Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: Member Cummings.

4. Public Comment

President Ward then asked if members of the audience would like to bring forth any issues or comments. Hearing none, he then directed Mr Koach to proceed with the remaining Executive Director Issues.

A. Executive Director Issues Continued

6. Indigent Burial Fund - Filing Fee Calculation

The Indigent Burial Fund law provides that funeral directors can be reimbursed for up to a maximum of \$450 when they take care of the final disposition of an indigent's remains. Monies for the Fund are collected by the Department of Human Services (DHS) for each death certificate filed via a filing fee. Of that \$7 filing fee, \$5 is transferred to the Board to fund the Board's programs, and the remaining \$2 is transferred to the Indigent Burial Fund administered by DHS. Reimbursements are then calculated by dividing the total amount deposited into the Fund by the number of claims submitted by funeral directors during a given month. It is unusual that a funeral director gets the maximum reimbursement though.

Since the implementation of the new Electronic Death Registration System (EDRS), DHS hasn't been able to issue death certificate filing fee invoices in a timely manner, which in turn slows down the collection of the revenue for both the Board's programs, as well as the Indigent Burial Fund. Fortunately for the Board, we have sufficient revenue to carry us forward until this is resolved. However, claims are still being submitted by funeral directors to the Fund and the amount of the reimbursements are almost laughable. Mr Koach expressed concern to DHS regarding this apparent unfairness. DHS is working diligently to resolve this issue and is keeping Mr Koach informed of their efforts. He asked if any one had questions or needed further information. Hearing none, he continued to the next agenda item.

7. Other Legislative Initiatives

a. HB 5029 - Budget Update

Mr Koach discussed the Board's budget bill hearing, his written presentation and appearance before the Committee, as well as testimony from various people.

As it looks now, the Board will lose one position as of July 1, 2007. After providing a detailed overview of the budget process, the history of the Board's many attempts to resolve an ongoing revenue shortfall, efforts to preserve current staff level, reduce staff turnover, deploy current staff more efficiently, Mr Koach asked Lynne Nelson, Compliance Manager to discuss the handout that identified the number of completed inspections and investigations based upon the number of Board Compliance staff from May 2003 to March 2007. The charts were a great visual tool that showed that investigations and inspections were significantly higher with a full staff.

Mr Koach thanked Joncile Martin for attending the budget hearing, as she was the only Board member there.

b. Other Legislative Initiatives

1. HB 2029 - OMCB Complaint Investigation

At the last Board meeting, the Board voted to oppose this bill. Included in the Board packet was an email Mr Koach sent to Patrick Brennan, Committee Administrator. He said that the email was a pretty good explanation on how we count cases, as well as his testimony of this bill. He then asked Lynne Nelson to discuss the status of open cases.

Ms Nelson reported that at the last Board meeting, staff was directed to provide a status memo for each upcoming Board meeting identifying the Board's case log, and then every six months, the Board will review all outstanding cases.

She then distributed a one-page handout which provided a statistical analysis of the total number of cases open, cases that are pending investigative report to the Board, cases that have been heard by the Board but are waiting for action (pending notice, hearing request, hearing and / or final order).

After the Board votes today, the total number of open cases will be 65 with ABCs, and 34 without ABCs. She then asked if anyone had questions.

Hearing none, President Ward thanked her for her work; he said he really appreciated the effort.

2. HB 2528 - State Agency Complaint Investigation

This bill applies to all state agencies. It would require the Board to perform a variety of new functions such as establish cause, do a preliminary review, have a hearing every time the investigation expands, and so on and so forth. Curiously, the language in this bill and in HB 2609 springs from the investigative procedures established by the Government Standards and Practices Commission. He thought that this bill would not move, but he would follow and report back to the Board.

3. HB 2609 - OMCB Complaint Investigation

Mr Koach reported that this bill was sponsored by Representatives Butler and Krummel. If passed, it would impose radical changes on the Board's procedures, but it doesn't provide the Board with any additional staff to accomplish what the bill requires. He said he would continue to follow and keep the Board updated.

4. HB 2798 - Veterans Affairs Funeral Expenses

Mr Koach noted that this bill was in the Board packet for information purposes.

5. HB 2864 - ORS chapter 97 Amendments

Mr Koach reported that he wasn't in a position to recommend one way or another what the Board should do for this particular bill. He thought that there were a lot of good things in this bill that are house keeping in nature, but there was one provision that gave him great concern about the conversion of trust to insurance. Once a trust is fully funded, there is absolutely no rational basis for a consumer to convert a trust to insurance. After providing a detailed analysis of this bill, and discussion between various Board members, President Ward asked the Board to proceed to the next item.

6. HB 3443 and HJR 52 - Funeral Ceremony Disruptions

Mr Koach thought these were basically information only, unless anybody wanted to comment. Hearing none, he continued.

7. SB 545 - Funeral Service Practitioner Apprentices

Mr Koach worked with Wally Ordeman on this bill, and his recommendation would be that the Board support it. He asked Mr Ordeman to provide some highlights on this bill sponsored by the Oregon Funeral Directors Association (OFDA).

The bill would eliminate the language in ORS 692 that has to do with the limitation of an apprenticeship to four consecutive years. The new language would allow an apprenticeship for an aggregate total of no more than 48 months; the apprenticeship is still twelve months practical experience though. The reciprocal language in this same chapter will be revised, simplifying the reciprocity requirements. In addition, the bill will allow an embalmer or funeral service practitioner to supervise up to three interns. (Interns are students who are enrolled in Mt Hood Community College's funeral service education program.)

Mr Ordeman did report that they looked at revising the law to allow FSP apprentices to sign death certificates, but it brought up some questions, and because of the time constraints, they decided not to pursue this session. He then went on to say that OFDA felt that none of the revisions would have any bearing on consumer protection, and no fiscal impact on the Board whatsoever.

President Ward thanked him and then asked the Board if they would like to go on record in support of this bill

Kevin Korn so moved. Ms Martin seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.

8. SB 746 - Cemetery License Fee Exemptions

This bill involves cemeteries that perform 25 burials annually, up to 50 burials per biennium. It would exempt them from paying any fees, but the Board would retain the responsibility to license, inspect and conduct investigations. The fiscal impact was estimated to be a loss of revenue of \$23,600.

After discussion, Joncile Martin pointed out that the anticipated changes are a lot larger than staff first anticipated. After carefully reviewing the language, Mr Koach agreed and thanked her and said that staff would need to rework the fiscal impact estimate - it appears that the majority of the cemeteries that the Board regulates would fall under this bill, if it became law. After this new understanding of the impact of this bill, he recommended that the Board oppose this bill as it is written.

President Ward said he would entertain a motion to that effect.

Robert Wentzel so moved. Ms Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.

9. SB 752 - Annual Complaint Report

This bill requires professional regulatory boards to report annually about complaints received by the Board, as well as submitting a report to the Legislative Assembly and Governor, and posting of that report on the Board's website. Mr Koach said that we already do a significant amount of data collection identified on this bill.

President Ward asked if there was any further discussion necessary. Hearing none, he asked Mr Koach to continue to the next agenda item.

10. HB 2927 - Task Force on Anatomical Gift Donations

Mr Koach then discussed this bill. He didn't know if the Board needed to make any decision on this one, but he thought establishing a task force for the State of Oregon was a good thing. Unless anybody had any questions, that was all he had to discuss.

Hearing none, President Ward then directed the Board to proceed to Investigations. He then recognized Laura Mather.

D. Investigations

New Cases:

- a. **01-1040A, B, C, D** - Ms Mather reported that the full Board considered these cases in executive session and recommended that the Board take no action. Ms Wachter so moved. Mr Wentzel seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.
- b. **04-1049** - Ms Mather reported that the full Board considered this case in executive session and recommended, and she so moved, that the Board take no action. Ms Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.
- c. **04-1050A, B** - Ms Mather reported that the full Board considered these cases in executive session and recommended, and she so moved, that the Board take no action. Mr Korn seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.
- d. **05-1007A, B** - Ms Mather reported that the full Board considered these cases in Executive Session and recommended, and she so moved, that the Board take no action. Mr Wentzel seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.
- e. **05-1014** - Ms Mather reported that the full Board considered this case in executive session and recommended, and she so moved, that the Board initiate Disciplinary Action. Ms Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.
- f. **06-1010A, B, C** - Ms Mather reported that the full Board considered these cases in executive session and recommended, and she so moved, that the Board initiate Disciplinary Action. Mr Kimoto seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.
- g. **06-1015A, B** - Ms Mather reported that the full Board considered these cases in executive session and recommended, and she so moved, that the Board initiate Disciplinary Action. Mr Korn seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.

- h. **06-1036** - Ms Mather reported that the full Board considered this case in executive session and recommended, and she so moved, that the Board take no action. Mr Cummings seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.
- i. **06-1037** - Ms Mather reported that the full Board considered this case in executive session and recommended, and she so moved, that the Board take no action. Mr Wentzel seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.
- j. **06-1053A, B** - Ms Mather reported that the full Board considered these cases in executive session and recommended, and she so moved, that the Board take no action. Mr Cummings seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.
- k. **07-1003A, B, C** - Ms Mather reported that the full Board considered these cases in executive session and recommended, and she so moved, that the Board accept the application. Ms Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.
- l. **07-1004** - Ms Mather reported that the full Board considered this case in executive session and recommended, and she so moved, that the Board deny the application. Ms Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.
- m. **07-1005A, B** - Ms Mather reported that the full Board considered these cases in executive session and recommended, and she so moved, that the Board take no action. Mr Korn seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.
- n. **07-1006** - Ms Mather reported that the full Board considered this case in executive session and recommended, and she so moved, that the Board deny the application. Ms Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.
- o. **07-1008** - Ms Mather reported that the full Board considered this case in executive session and recommended, and she so moved, that the Board accept the application. Mr Cummings seconded. Mr Kimoto recused himself. Mr Korn voted no. All others were aye and the motion carried. Those voting in favor: Members Cummings, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: Member Korn. Recused: Member Kimoto.

- p. **07-1009** - Ms Mather reported that the full Board considered this case in executive session and recommended, and she so moved, that the Board deny the application. Ms Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.

As this concluded Investigations, President Ward directed the Board to proceed to Licensing. He then recognized Lynne Nelson, Compliance Manager.

E. Licensing Issues

1. Special Requests

- a. Melessa A Elwell's written request for Board approval of her FSP apprenticeship while enrolled part-time (six credit hours) in Mt Hood Community College's Funeral Service Education Program.

Ms Nelson reviewed the written request from Ms Elwell requesting Board approval of her FSP apprenticeship while enrolled part-time in Mt. Hood Community College's funeral service education program. She then asked if there were any questions.

Hearing none, President Ward asked if there was a motion. Ms Wachter recommended and so moved that the Board grant approval of her FSP apprenticeship while attending mortuary school part-time. Ms Mather seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.

- b. John M Krake's written request for Board approval of his FSP apprenticeship while enrolled part-time (six credit hours) in Mt Hood Community College's Funeral Service Education Program.

Ms Nelson then reviewed Mr Krake's written request for Board approval of his FSP apprenticeship while enrolled part-time in Mt Hood Community College's funeral service education program.

Mr Korn recommended and so moved that the Board grant approval of Mr Krake's FSP apprenticeship while attending mortuary school part-time. Mr Cummings seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.

President Ward then asked the Board to review the remaining agenda items under Licensing before voting. He asked if anyone had questions or comments. Hearing none, he recommended and so moved that the Board approve Licensing Agenda Items 2a through 10b. Ms Mather seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Kimoto, Korn, Martin, Mather, Wachter, Ward, Wentzel. Those voting no: none.

As this concluded Licensing, President Ward asked if any members of the Board or the public had any issues or concerns to be brought before the Board at this time. He then recognized Nancy Felton.

Ms Felton asked for an update on the two Board member vacancies. Mr Koach responded that he periodically touches base with the Director of the Governor's Executive Appointments Office. He said that he calls periodically to let them know that we are anxiously awaiting new Board members. President Ward then said that he would contact the Governor's Office himself to find out why the process was taking so long.

Ms Felton then asked if it was possible to post the general session related documents on the Board's website. Mr Koach said that he would look into it.

Mr Koach then discussed an issue that came up in the Complaint Review Committee (CRC) meeting regarding the Board's decision to deny Laura Jo Hofsess' request to manage more than one funeral establishment at the November 2006 Board meeting. In response to the Board's denial of her request, Ms Hofsess elected to surrender the Port Orford Funeral Service license and close that location. Subsequently the Board has received letters from concerned citizens expressing their disappointment of the Board's decision not to allow Ms Hofsess to manage a funeral home located in Coos Bay, and a funeral home located in Port Orford. After brief discussion, the Board directed staff to send each concerned citizen a letter stating that since Ms Hofsess decided not to appoint a manager, it was her decision to surrender that license and close that location. Ms Hofsess can still provide funeral services for those in Port Orford through her funeral establishment either in Coos Bay or Coquille.

President Ward then asked if anyone else had questions or comments. He recognized Joncile Martin.

Ms Martin reminded Board members take the inspection checklists out of the Board packet and review them, as the Consumer Industry Advisory Group will be recommending changes to the inspection process at the May 22, 2007 Board meeting.

F. Miscellaneous

President Ward asked if there were any other questions or concerns to be brought before the Board. Hearing none, and there being no further business, President Ward adjourned the meeting.

ADJOURNMENT - The general session was adjourned at 2:13 pm.