

OREGON MORTUARY AND CEMETERY BOARD MEETING

800 NE Oregon Street, Conference Room 1A

Portland, OR 97232

JULY 24, 2007

FINAL MEETING MINUTES – GENERAL SESSION

(Revised 09/25/2007)

Board Members Present:

Jim Ward, President
Jon Cummings, Vice President
Laura Mather, Secretary / Treasurer
Kevin Korn
Joncile Martin
Lyn Stanger
Pamela Wachter
Robert Wentzel

Staff Members Present:

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

Board Members Absent:

Diane Bassett-Pohl
Michael Harper
Michael Kimoto

Staff Members Absent:

Johanna Matanich, AAG

Guests Present:

Steve Schacht, SCI Oregon
Nancy Felton, CIAC / CGC / CAO
Ron Martin, Bateman FH
Scott Logan, CIAC / Finley-Sunset Hills
Chad Dresselhaus, AFCTS

J C Aubry, Lincoln Memorial
John Brenneman, OFDA
Mark Stehn, OFDA
Amy Lowery, Bollman FH
Tim Corbett, CIAC / CAO / Mt Calvary

CALL TO ORDER:

President Ward called the general session of the Oregon Mortuary and Cemetery Board (Board) meeting to order at 9:04 am. After roll call, he directed the Board go into executive session as authorized under ORS 192.660(2) (f), (h), (i) or (k). The executive session adjourned at 11:45 am.

GENERAL SESSION:

The President then called the general session of the Board to order at 12:07 pm.

A. Approval of Draft Meeting Minutes

May 22, 2007 General Session Meeting Minutes Draft

President Ward asked the Board to review the draft meeting minutes for May 22, 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, Korn, Martin, Mather, Stanger, Wachter, Ward, Wentzel. Those voting no: none.

B. President's Issues

1. Introduction of New Board Member, Lyn Stanger

President Ward introduced and welcomed Lyn Stanger, the Board's newest member. Effective June 20, 2007, Ms Stanger was appointed to replace Board member Kathy Wentz-Phelps, who held the FSP represented position on the Board. Ms Stanger resides in Grants Pass, Oregon.

Lyn Stanger thanked him and provided the Board with a brief summary of her background. She graduated from Mt Hood Community College's Funeral Service Educational Program in 1991, and has worked for Hull and Hull Funeral Directors for the past 18 years and is currently the manager. She owns an interest in this funeral home along with two other funeral homes, a cemetery and a crematory. She is also the President of Lovejoy Hospice, the second oldest nonprofit hospice in Oregon.

2. ORS 182.010 and 182.020 re Board Meeting Attendance

President Ward noted that he included this in the packet for the Board's newest member, as well as an aide memoire to the full Board. The law states that any member who fails to attend two consecutive meetings, for any cause that in the judgment of the Governor does not constitute a valid reason, that member shall forfeit office.

3. Consumer-Industry Advisory Committee

At the last Board meeting, the Committee provided their written recommendations, with a request that the memo and inspection checklists be reviewed fully at this Board meeting. President Ward initially thought that the changes were too extensive to review at a regular Board meeting and tendered the idea of scheduling a special meeting for an in-depth detailed review. He then asked for the Board's input.

After detailed discussion between Board members, staff members, guests in the audience, including members of the Committee, it was determined that staff's written evaluation of the recommendations was needed before the full Board could make an informed decision. A special Board meeting was then scheduled for September 24, 2007. Committee Chair, Jon Cummings, then requested that a copy of staff's response be provided to the Committee prior to their meeting on September 11, 2007. The Committee would then be able to take into consideration staff's input and potentially revise their recommendations.

President Ward then recognized Lynne Nelson, Compliance Manager.

Ms Nelson stated that she did review the checklists and did have some thoughts on it. She thought a lot of it was great but she did disagree with some of it. The first had to do with the Committee's comment that staff needed to rely less on a questionnaire or survey approach when conducting inspections. She said that the inspectors do not necessarily need to ask every question identified on the inspection checklist; the questions are there more or less as a reminder or reference, especially for new inspectors. During the course of an inspection, the inspector can see by a review of the arrangement files and other documents that this has been covered and there is no need to ask some of these questions.

Ms Nelson then reviewed the Committee's recommendation that during an inspection, the inspector not review the apprenticeship logs, in order to streamline the inspection process. Staff's opinion was that it was necessary in order to help ensure that the apprentice is keeping track of all the required information necessary in order to help ensure that they are meeting all the requirements for that license. She asked why the Board would not want the inspectors to help address what could be a problem early, via education, as five minutes of explaining what is required on the apprenticeship log may save staff hours later writing an investigative report.

Ms Martin responded that one of the members of the Committee initially thought that it was helpful for the inspector to request the apprentice's logs for that purpose, but then consensus by all members of the Committee determined that inspections should be focused on issues which are clearly authorized by the statute, not by putting two rules together, or by inference. The Committee's intent was that inspections could be done in a timely manner and still be as thorough as possible, with the understanding that you cannot dot every "i" and cross every "t." The Committee believed that since the apprenticeship logs are not in the statute, they shouldn't be addressed via the inspection.

Tim Corbett then reported that there were some major changes being suggested. The Committee is recommending that staff not review for the Department of Consumer and Business Services (DCBS) issues. If it is DCBS' jurisdiction, then let them deal with that. Same with the Federal Trade Commission's Funeral Rule.

After additional discussion, Ms Martin recommended and so moved that the Board accept the recommendations generally for the inspection checklists with the right to come back and refuse later. Mr Cummings seconded. Discussion was called. President Ward recognized Lynne Nelson, Compliance Manager.

Ms Nelson asked for clarification. Did the Board expect staff to start implementing these recommendations now. Ms Martin responded in the negative, but Mr Corbett disagreed.

Mr Corbett stated that the Committee didn't take anything off the list unless they felt that it wasn't within the Board's jurisdiction, or that it was something that was an investigative issue and not related to an inspection. He said that it was the Committee's intent that if it wasn't on the inspection checklist, then it would not be looked at during the inspection.

Mr Koach then said that if we were to stop inspecting for compliance for the Federal Trade Commission's Funeral Rule, which is the most fundamental consumer protection regulation that we have, we have changed the entire identity of the Board, we have not simply eliminated a few minor things to simplify the inspection process. He said he would find it very hard to explain to a consumer group why the Board decided not to review the funeral home's price lists for compliance.

Ms Martin responded that after careful reading of the law, the law says investigations, the law does not say that this Board has the authority to regulate for compliance of the Funeral Rule. If the Board wanted this authority, it should approach the Legislature and have it added. She then reminded everyone that she had a motion on the floor.

President Ward thanked her and said he was comfortable with the motion because it does give the Board recourse to come back and change it. He then asked the Board to vote on this motion.

All votes were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Korn, Martin, Mather, Stanger, Wachter, Ward, Wentzel. Those voting no: none.

President Ward then thanked everyone on the Committee again. He knew that they had accomplished a lot so far, with the understanding that they still had a ways to go. He then recognized Jon Cummings, Chair.

Mr Cummings then read the Committee's written recommendation from their May 15, 2007 meeting, as follows:

Recommendation # 1: The Board should have a stated goal of having no fewer than 12.5% of licensed facilities inspected every quarter. The goal should be monitored through a simple report devised by staff and provided to the Board at the meeting for the end of previous fiscal quarter.

Mr Cummings reported that he asked Lynne Nelson, Compliance Manager, for such a report earlier that day. He continued by stating that he wasn't going to read all of Recommendation # 2. He then continued.

Recommendation # 3: The Board should appoint a subcommittee of Board members to hear disagreements or complaints on inspection process, staff interpretations or cited violations from licensees.

Recommendation # 4: A copy of a memo describing the inspection and compliance progress should be provided to licensees when violations are noted. This should be accompanied by a form that allows licensees to ask the Board's subcommittee to review complaints from licensees.

Recommendation # 5: Every other inspection should come with 24 to 48 hour notice to facilitate efficient scheduling of the inspector's time as well as to ensure that manager of the facility is available to the inspector. The next inspection is a random inspection. All inspections are to be random if a moderate or severe violation was noted within the last four years.

Mr Cummings asked if anyone had questions. He recognized David Koach, Executive Director.

As to Recommendation # 4, Mr Koach reported that on the back of the Inspection Receipt that is handed to the licensee before the inspector leaves, there is a description of the inspection process. It used to be a separate handout, but it was made a part of the form itself, about two years ago.

It clearly states that the inspectors do not have authority to compel corrective action. In the event a licensee declines to take voluntary corrective action, the matter is presented to the Board for a decision.

President Ward then recognized Tim Corbett.

Mr Corbett stated that he wrote a letter to the Board earlier this year because he disagreed with staff's interpretations of a rule during an inspection of one of his cemeteries. He then said he had never received a response. Mr Koach disagreed and reminded Mr Corbett that they did have a telephone conversation shortly after. Mr Corbett responded that he didn't write a letter to him, it was a letter to the Board.

The Board's Office Manager then reminded everyone that during the January 23, 2007 Board meeting, President Ward told Mr Corbett during Public Comment that the Board reviewed his letter during Executive Session and that David Koach would respond to the concerns and issues he raised in his letter.

Mr Corbett said that was the first he had heard of it. Mr Koach admitted to being delinquent, and he said he would address Mr Corbett's letter.

President Ward then asked if there was anything else under Public Comment that didn't have to do with this particular situation. Hearing none, he then recognized Amy Lowery as the newly installed president of the Oregon Funeral Directors Association (OFDA). She thanked him. President Ward then requested that Mr Koach continue with the next scheduled agenda item.

C. Executive Director Issues

1. Staff Reduction and Retention

Mr Koach said that staff successfully accomplished the effort to divide one investigator position into two part-time positions, so while the Legislature reduced our staff to 5 full time

equivalent (FTE) positions, instead of losing the investment we have made in Brandy Cochrane, Board Inspector, Bill Bennington went to half-time as an investigator, and Ms Cochrane was promoted to an investigator, half-time as well.

2. Legislative Issues

a. Memo re HB 2927 - Anatomical Gift Task Force, with related Documents and Correspondence

Mr Koach said he gets more questions from funeral directors about this issue than anything else. This bill passed the House and made it through the Senate Subcommittee but when it got to the Ways and Means Committee, it stalled for lack of money, and it failed.

b. Memo re HB 2185 - Public Health Emergencies

This was not something that the Board was intimately concerned with or aware of during the Session but since it does involve the industry, Mr Koach prepared a memo describing the portion of the bill that relates to funeral service during a public health emergency.

c. HB 2507 - Homicide Suspects Lose Right to Control Disposition

He then continued by discussing this bill. A specific provision provides that if one murders one's spouse, son, or daughter, you lose your right to control disposition of their remains. He then asked if the Board had any questions.

Hearing none, and since President Ward had momentarily left the meeting, Jon Cummings recognized Laura Mather and requested that she proceed to Investigations.

D. Investigations

New Cases:

04-1045A, B and 05-1044A, B and 05-1029A, B, C and 06-1033A, B and 07-1018A, B and 07-1025 and 07-1027 and 07-1028C - 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, Korn, Martin, Mather, Stanger, Wachter, Ward, Wentzel. Those voting no: none.

05-1008A, B, C, D, E, F, G and 07-1028A, 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. Ms Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Korn, Martin, Mather, Stanger, Wachter, Ward, Wentzel. Those voting no: none.

07-1031A, B - Ms Mather reported that the full Board considered these cases in executive session and recommended and she so moved that the Board approve the application with a condition. Mr Korn seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Korn, Martin, Mather, Stanger, Wachter, Ward, Wentzel. Those voting no: none.

07-1032 - Ms Mather reported that the full Board considered this case in executive session and recommended and so moved that the Board approve the application. Ms Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Korn, Martin, Mather, Stanger, Wachter, Ward, Wentzel. Those voting no: none.

E. Licensing Issues

Proceeding to Licensing Issues, Ms Mather recommended and so moved that the Board approve Licensing Agenda Items 2a through 10. Mr Wentzel seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Korn, Martin, Mather, Stanger, Wachter, Ward, Wentzel. Those voting no: none.

F. Miscellaneous

President Ward then asked if there were any other business to come before the Board. Hearing none, he thanked all the Board members present for their attendance, their patience and especially their endurance here today. He then thanked all the members of the Consumer-Industry Advisory Committee again for all the work they've done and for all the work that they will be doing down the road, and to the guests for their presence and comments. There being no further business, President Ward then adjourned the meeting.

ADJOURNMENT - The general session was adjourned at 1:52 pm.