

Regular Meeting (Monday, December 14, 2015)

Generated by Jarrod Williams on Tuesday, December 15, 2015

This meeting of the Board of Embalmers and Funeral Directors was video recorded. You may view this meeting in its entirety at: https://youtu.be/yLEYOVR_XVk to fully understand and appreciate the rationale behind the board's decisions. MINUTES SHALL BE CONSIDERED UNOFFICIAL UNTIL READ AND APPROVED BY FORMAL VOTE AT A SUCCEEDING REGULAR MEETING.

Members present

Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

Thomas Taneff was absent.

Others present

Vanessa Niekamp, Katherine Bockbrader

Meeting called to order at 1:05 p.m.

1. Convening of the Board - President

1.01 Calling of the Roll

1.02 Remembrance of Austin Singletary

Board meeting notation: Mr. Gregory Boyer, board president, informed the board that former board Intern, Mr. Austin Lee Singletary passed November 25, 2015. Mr. Boyer recounted Mr. Singletary's contributions to the board office during an internship in the summer of 2014. Mr. Boyer led the board in a moment of silence in remembrance of Austin.

2. Consideration of Minutes

2.01 Consideration of the October 2015 Minutes

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. No discussion among the board.

Motion to approve the meeting minutes from the October 19, 2015 Meeting of the Board.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

3. Licensure

3.01 Ronald Garr - Application for Initial Registration of Apprenticeship

The applicant has made application for initial registration of apprenticeship. The applicant was asked to come before the board to address any questions the board may have regarding the information obtained in the background check. The board was provided with the Agenda Materials for Item 3.03, which reflect the following criminal history:

03/09/1993 - The applicant was charged with "Rape" and "Kidnapping" (both felonies) and was found guilty of "Sexual Battery" on 11/10/1993. Confinement of 2 years with a suspended sentence of 2 years with 2 years of probation were imposed. The board requested a release letter from the court, but the applicant never provided one.

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Ronald Garr was not in attendance. Mr. Boyer stated that Mr. Garr requested the board to consider his application to register for apprenticeship without his presence to answer questions related to his background check. Mr. Boyer summarized Mr. Garr's criminal records check (background) information. Mr. Robert Wasko, board vice president, recalled the board's history of invitation to applicants to appear before the board to answer questions during deliberation of their application. Mr. Wasko stated, based on Mr. Garr's unwillingness to be present during deliberation, there was nothing more than the information within the paper documents to deliberate on. Mr. Wasko made a motion to refuse to grant Mr. Garr's application for registration to the board on the basis the applicant has been convicted of a crime involving moral turpitude. No discussion among the board.

Motion to refuse to grant the registration, on the basis the applicant has been convicted of a crime involving moral turpitude.

Motion by Robert Wasko, second by Jack R Marchbanks.

Final Resolution: Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

3.02 Recommended Facility Licenses

The board was provided with the agenda item details and reviewed the following applicants:

New Facility License - New Building / New Location:

<i>New License #</i>	<i>Title of Facility</i>	<i>Location</i>
CREM 000201	Slone & Company	Cleveland
CREM 000202	Lusain Memorial Crematory	Dayton
FH 003450	Grisier-Weigel Funeral Home	Delta

New Funeral Home License - Change of Ownership / Existing Facility:

New License #	Title of Facility	Title of Previous Facility	Location
FH 003451	Castillo Funeral Home	Gasiorowski-Hanneman Funeral Home	Toledo
FH 003452	Gregory P. Godorhazy Funeral Home	Sauer's Funeral Home	Delta

Approval of Paperwork - for funeral home license prior to occupancy permit and final inspection:

Title of Facility	Location
Grisier Funeral Home	Stryker
DeJohn Funeral Home	Chesterland

Name Changes:

License #	Current Name	New Name	Location
FH 003387	Young Lusain Funeral Home	Young Lusain Funeral Home and Crematory	Dayton

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer stated the numbers and types of applications for consideration. No discussion among the board.

Motion to approve the applications recommended for facility licensure.

Motion by Bryan E Chandler, second by Robert Wasko.

Final Resolution: Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

3.03 Recommended Individual Licenses

The board was provided the agenda item details and reviewed the following applicants:

Initial License	Name of Applicant	Location
FD.009758	Cox, Benny R.	Springfield
Emb.009657 FD.009759	Dodds, Holly R.	Carrollton

Initial License	Name of Applicant	Location
Emb.009658 FD.009760	Jefferson, Fralisia C.	Columbus
Emb.009659 FD.009761	Mihovk, Sarah J.	Cincinnati
Emb.009660 FD.009762	Pavelka, Adrienne D.	Union
Emb.009661 FD.009763	Barker, Rachel I	Canton

Licenses to become Inactive (2 Years)

License #	Name of Applicant	Location
Dual.009624	Frank, Cole A.	Oakes ND

Reinstatements to be Approved

License #	Name of Applicant	Location
Dual.009155	Bour, Jeffrey L.	Piqua

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer stated the numbers and types of applications for consideration. No discussion among the board.

Motion to approve the applications recommended for individual licensure.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

3.04 Information - No Motion Items

The board was provided the agenda item details and reviewed the following information:

Change of manager and/or AIC (AIC name will need to be added to funeral home sign within 24 months):

<i>Facility Title</i>	<i>License #</i>	<i>Licensee Name</i>	<i>Title Type</i>	<i>Location</i>
Gwen Mooney - Miller Funeral Home	003316	Theresa A. Correa	Manager	Cincinnati
Gwen Mooney Funeral Home	003338	Theresa A. Correa	Manager	Cincinnati

Gwen Mooney Funeral Home	003221	Theresa A. Correa	Manager	Cincinnati
Gwen Mooney Funeral Home	002362	Theresa A. Correa	Manager	Cincinnati
Halteman Fett & Dyer Funeral Home	002108	James Dyer	Manager	Lancaster

Individuals issued a Registration number:

<i>Type</i>	<i>Name</i>	<i>City</i>	<i>Issue Date</i>
FD	Bayliff, Joseph	Arlington	10/19/15
DUAL	Bell, Mallory	Canton	10/06/15
FD	Dawson, Marcia	Columbus	11/03/15
DUAL	Dopp, Jeffrey	New Philadelphia	10/06/15
EMB	Forrest, Ian	Kettering	10/09/15
DUAL	George, Andrew	Cleves	10/29/15
FD	Holowczak, Adam	Parma	10/09/15
FD	Majorkiewicz, Lucy	Fairlawn	10/23/15
DUAL	Matz, Kaitlyn	Newcomerstown	10/06/15
FD	Neff, Julie	W Carrollton	10/14/15
DUAL	Pyzik, Kathryn	Middleburg Hts	11/02/15
DUAL	Wallace, Elizabeth	Columbus	10/14/15
DUAL	Watkins, Qween	Cincinnati	10/19/15

Individuals Certified as an Apprentice

<i>Type</i>	<i>Name</i>	<i>Funeral Home</i>	<i>City</i>	<i>Date</i>
FD	Barnett, Kandy	Carl W Hall FS	Warren	10/06/15
FD	Bayliff, Joseph	Crates FH	Arlington	10/30/15
DUAL	Bell, Mallory	Walter-Simchak FH	Canton	10/06/15
FD	Dawson, Marcia	Smoot FS	Columbus	11/10/15

DUAL	Dopp, Jeffrey	Linn-Hert-Geib FH	New Philadelphia	10/26/15
EMB	Forrest, Ian	Routsong FH	Kettering	10/19/15
DUAL	George, Andrew	Dennis George FH	Cleves	11/16/15
FD	Gompf, Geoffrey	Gompf Funeral Service	Cardington	10/01/15
FD	Hoffman, Cathy	Wright-Habegger FH	Grand Rapids	10/07/15
FD	Holowczak, Adam	Holowchak FH	Parma	10/20/15
FD	Majorkiewicz, Lucy	Cirello & Carr FH	Fairlawn	10/23/15
DUAL	Matz, Kaitlyn	Addy Funeral Home	Newcomerstown	10/06/15
FD	Neff, Julie	Swart & Wolfe FH	W Carrollton	10/23/15
DUAL	Pyzik, Kathryn	A Ripepi & Sons FH	Middleburg Hts	11/09/15
DUAL	Wallace, Elizabeth	Shaw-Davis FH	Columbus	10/15/15

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer stated the numbers and types of information for review as listed in the no motion items agenda. No discussion among the board.

4. Continuing Education

4.01 Continuing Education Exemption

The board was provided the agenda item details and reviewed the following applicant:

50 year Exemption:

License #	Name	Date Issued
DUAL.005912	Littleton, Barth H.	10/29/1952

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer stated the number and type of application for consideration. No discussion among the board.

Motion to approve the application for continuing education exemption.

Motion by Robert Wasko, second by Jack R Marchbanks.

Final Resolution: Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

4.02 Continuing Education Programs - Recommendation to Approve

The board was provided the list of applicants for November and December 2015 in the agenda item details for review. The documents provided to the board may be located in the agenda online at the following link: [http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6T6P87CB0F4/\\$file/2015%20Dec%20CE%20Programs.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6T6P87CB0F4/$file/2015%20Dec%20CE%20Programs.pdf)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Jack Marchbanks, board member, inquired about the duration of a continuing education program after approval. Mr. Boyer replied that some applicants may apply for a full year of programs or less. Mr. Robert Wasko, board vice president, added that program providers need to apply for each of their sessions.

Motion to approve the applications recommended for continuing education programs.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

5. Compliance

5.01 Report and Recommendation - Vito Nero Funeral Home 150006787

The board was provided the report and recommendation in the agenda item details for review. The documents provided to the board may be located in the agenda online at the following link: [http://www.boarddocs.com/oh/boefd/Board.nsf/files/A3RQZM665D0A/\\$file/R%26R%20-%20Vito%20Nero%20150006787_1.PDF](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A3RQZM665D0A/$file/R%26R%20-%20Vito%20Nero%20150006787_1.PDF)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. No discussion among the board.

Motion to approve the Hearing Officer's finding of facts.

Motion by Robert Wasko, second by Bryan E Chandler.

Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

Board meeting notation: No discussion among the board.

Motion to approve the Hearing Officer's conclusions of law.

Motion by Robert Wasko, second by Bryan E Chandler.

Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

Board meeting notation: Mr. Robert Wasko, board vice president, commented on the hearing officer's recommendation regarding the amount of the forfeiture. Mr. Wasko shared his opinion that the forfeiture amount was too low for a second offense based on past recommendations from the hearing officer. No further discussion among the board.

Motion to approve the Hearing Officer's recommendation.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

5.02 Report and Recommendation - FJ Corrigan Funeral Services 150006761

The board was provided the report and recommendation in the agenda item details for review. The documents provided to the board may be located in the agenda online at the following

link: [http://www.boarddocs.com/oh/boefd/Board.nsf/files/A3RRBU676C25/\\$file/R%26R%20-%20FJ%20Corrigan%20150006761_1.PDF](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A3RRBU676C25/$file/R%26R%20-%20FJ%20Corrigan%20150006761_1.PDF)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. No discussion among the board on the first two motions.

Motion to approve the Hearing Officer's finding of facts.

Motion by Bryan E Chandler, second by Robert Wasko.

Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

Motion to approve the Hearing Officer's conclusions of law.

Motion by Bryan E Chandler, second by Robert Wasko.

Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

Board meeting notation: Mr. Robert Wasko, board vice president, commented again on the hearing officer's recommendation regarding the amount of the forfeiture amount. Mr. Wasko stated support for the motion to approve the hearing officer's recommendation, but shared his opinion that the forfeiture amount was too low for a second offense based on past recommendations from the hearing officer. No further discussion among the board.

Motion to approve the Hearing Officer's recommendation.

Motion by Bryan E Chandler, second by Jack R Marchbanks.

Motion carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

5.03 Ratification of Settlement

The board was provided a settlement in the agenda item details for review. The documents provided to the board may be located in the agenda online at the following links:

[http://www.boarddocs.com/oh/boefd/Board.nsf/files/A54NZ460A241/\\$file/Redacted%20Settlement%20Agreement%2020151214_Redacted.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A54NZ460A241/$file/Redacted%20Settlement%20Agreement%2020151214_Redacted.pdf)

[http://www.boarddocs.com/oh/boefd/Board.nsf/files/A54USW6383CB/\\$file/Redacted%20Settlement%20Agreement%20NOH%2020151214_Redacted.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A54USW6383CB/$file/Redacted%20Settlement%20Agreement%20NOH%2020151214_Redacted.pdf)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Robert Wasko, board vice president, stated unfamiliarity with a ratification of settlement process and questioned what it was about. Mr. Wasko stated this is usually done by the officers of the board and asked for an explanation. Mr. Boyer introduced Katherine Bockbrader, assistant attorney general, as the newly assigned legal counsel to the board of embalmers and funeral directors. Ms. Bockbrader replied to Mr. Wasko's concern by stating it was her recommendation for a ratification of a previous settlement considered by the officers of the board. Ms. Bockbrader indicated that the settlement need be considered by the whole board. Ms. Bockbrader also clarified her recommendation to redact the identifying information in the agenda materials as a precaution in the event that a no vote occurred and the licensee continued with a hearing. Mr. Wasko remarked that the identity is unknown when a charge of violation is considered, but then revealed in the meeting minutes afterwards and also identified in a settlement; the board learns the identity. Mr. Wasko recalled the board passing a motion years ago authorizing the board president to agree on settlements on behalf the board. Mr. Wasko asked Ms. Bockbrader if this [vote by the whole board] was one more step in the process. Ms. Bockbrader answered, yes. Mr. Wasko stated concern about a settlement agreement with the identity redacted. Ms. Bockbrader stated that the notice of charges will be disclosed for the board to understand what the licensee did, but not the identity of the charged. Mr. Wasko stated confidence in Ms. Bockbrader's years of experience with other boards and conceded to this new process. Ms. Bockbrader replied that the process is used by many boards. Mr. Jack Marchbanks, board member, questioned Ms. Bockbrader if she were making a recommendation to the board. Ms. Bockbrader answered that she was recommending the process for approving settlement, but was not necessarily making a recommendation to the consent agreement.

Motion to ratify the settlement.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

Board meeting notation: Mr. Wasko questioned Ms. Bockbrader if the board president was still involved in the process of settlement. Ms. Bockbrader replied that the board president will continue to provide the initial approval of a settlement offer and if the offer is accepted, the full Board will vote on whether to ratify the agreement.

5.04 Recommendation to Close

The board was provided the agenda item details below and reviewed the following compliance cases:

Case Number

1600044

Inspector

Anderson, Eric

Allegations

Complainant claims funeral director was not honest with pricing of goods and services and duplicated charges for pre-paid items.

Board Status

Review of the services charged determined fees were appropriate. Consumer also claimed

issue with flies, but

investigation determined the service was in the summer in a mausoleum and flies could not have been avoided.

Case Number Inspector

1600045

Allegations

Complainant claims unprofessional conduct by the funeral director and negligent embalming of the body.

Board Status

Condition of body was consistent with the type of death and timeframe. The fees charged were appropriate for the work provided. No violations found.

Case Number Inspector

1600047

Seehase, Troy

Allegations

Complainant alleges unprofessional conduct by funeral home and staff.

Board Status

The funeral home offered to remedy all the concerns prior to the service, but the consumer refused and no changes were made. No violations were identified.

Case Number Inspector

1600048

Anderson, Eric

Allegations

Complainant paid funeral director for marker, foundation, and installation of monument in September 2013.

Complainant alleges funeral director failed to provide goods and services as purchased.

Board Status

The headstone is now in place, which is the relief requested by the complainant.

Case Number Inspector

1600050

Seehase, Troy

Allegations

Complainant alleges co-worker/embalmer improperly discarded biohazard waste.

Complainant reported concerns to management of funeral home.

Board Status

Evidence does not support the allegations.

Case Number Inspector

1600052

Anderson, Eric

Allegations

Complainant alleges funeral director was unprofessional and did not provide quality services. Funeral director failed to properly communicate with family; to timely deliver a death certificate; and to print programs with correct information.

Board Status

Situation of two opposing side with no additional witnesses, and the DC was filed timely (5 days).

Case Number Inspector

1600053

Anderson, Eric

Allegations

Complainant alleges unprofessional conduct from funeral home staff.

Board Status

Witnesses support the respondent was not unprofessional.

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. No discussion among the board.

Motion to close compliance cases recommended for closure.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

5.05 Pending Cases

The board was provided the agenda item details below and reviewed the following compliance cases:

Case Number	Date Received	Inspector
150005701		2/17/2015 Anderson, Eric
Allegations		
Misappropriation of preneed (FH Suspended)		

Case Number	Date Received	Inspector
150005702		4/1/2015 Anderson, Eric
Allegations		
Misappropriation of preneed (FH Suspended)		

Case Number	Date Received	Inspector
150005703		3/30/2015 Anderson, Eric
Allegations Misappropriation of Preneed (FH Suspended)		
Case Number	Date Received	Inspector
1600029		6/1/2015 Anderson, Eric
Allegations Misappropriation of preneed.		
Case Number	Date Received	Inspector
1600035		9/8/2015 Anderson, Eric
Allegations Advertised as operating three (3) funeral homes, two of which are not licensed.		
Case Number	Date Received	Inspector
1600039		9/3/2015 Seehase, Troy
Allegations Allegedly lost the body of a deceased and prepared the wrong body and casket for a family viewing.		
Case Number	Date Received	Inspector
1600041		9/17/2015 Anderson, Eric
Allegations Misappropriation of preneed. (Summary suspension in place).		
Case Number	Date Received	Inspector
1600042		9/17/2015 Anderson, Eric
Allegations Misappropriation of preneed. (Summary suspension in place.)		
Case Number	Date Received	Inspector
1600046		9/30/2015 Anderson, Eric
Allegations Funeral home is advertising facility with unapproved name.		
Case Number	Date Received	Inspector
1600049		10/22/2015 Anderson, Eric
Allegations Complainant alleges funeral director of forging a signature on document.		

Case Number	Date Received	Inspector
1600051		10/26/2015 Seehase, Troy
Allegations		
Complainant alleges funeral home is wrongful beneficiary of pre-paid pre-need insurance policies for complainant's mother and sister.		

Case Number	Date Received	Inspector
1600054		11/12/2015 Anderson, Eric
Allegations		
Complainant alleges funeral home unfairly received compensation from Ohio Victims of Crime Program to recoup financial loss resulting from an unpaid balance due from family of deceased.		

Case Number	Date Received	Inspector
1600056		11/23/2015 Seehase, Troy
Allegations		
Misappropriation of preneed funds.		

Case Number	Date Received	Inspector
1600057		11/25/2015 Seehase, Troy
Allegations		
Complainant alleges funeral director misappropriated pre-paid preneed funeral funds. Complainant is seeking return of a \$500.00 deposit paid.		

Case Number	Date Received	Inspector
1600058		11/30/2015 Seehase, Troy
Allegations		
Attorney for family of deceased submitted complaint. Complaint alleges funeral home and funeral director failed to provide dignified services for deceased.		

Case Number	Date Received	Inspector
1600059		12/7/2015 Seehase, Troy
Allegations		
Complainant alleges funeral home manager directed funeral home employee to delay embalming of body until receipt of payment. The delay resulted in embalming of the body greater than forty eight hours after death.		

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. No discussion among the board.

5.06 Requests for Representation

The board was provided the attorney-client privileged case status report from the assistant attorney general in the agenda items for review.

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Robert Wasko, board vice president, stated our executive director has made us aware that Katherine's new position on the board has been helpful to us, as well as, streamlined and efficient.

6. Board Operations

6.01 Inspections

The board was provided the inspection summary reports in the agenda item details for review. The documents provided to the board may be located in the agenda online at the following links:

[http://www.boarddocs.com/oh/boefd/Board.nsf/files/A547A97742AA/\\$file/Inspection%20Summary%20Report%20-%20Anderson.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A547A97742AA/$file/Inspection%20Summary%20Report%20-%20Anderson.pdf)
[http://www.boarddocs.com/oh/boefd/Board.nsf/files/A547JY77ED9D/\\$file/Inspection%20Summary%20Report%20-%20Seehase.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A547JY77ED9D/$file/Inspection%20Summary%20Report%20-%20Seehase.pdf)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Jack Marchbanks, board member, inquired if data were available for comparison of previous years inspections. Mr. Boyer commented on a past visit from Troy Seehase, board inspector, and spoke of his thorough inspection of the facility. Ms. Vanessa Niekamp, executive director, responded to Mr. Marchbanks by offering to provide a comparative analysis report with data available from 2012 to present. Mr. Marchbanks affirmed that the past two or three years of data would be fine. Ms. Niekamp asked if Mr. Marchbanks would prefer the report in monthly or quarterly time periods. Mr. Marchbanks stated preference for quarterly. Mr. Boyer remarked that board inspectors have additional responsibilities aside from inspection of facilities, such as pre-need investigations, that slow their progress. Mr. Boyer also stated the inspectors have and maintain benchmarks. Ms. Niekamp confirmed to Mr. Marchbanks that she will prepare a report for next month's meeting. Mr. Marchbanks requested the report to begin with this past quarter, starting the first of October, with comparative data from the same quarter of the prior year. Ms. Niekamp affirmed the request.

6.02 SFY2016 Budget Review

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Robert Wasko, board vice president, complimented the executive director for managing the board's funds, and stated we are on track for where we should be. No discussion among the board.

6.03 IPP009 - Conducting Board Business

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item.

Motion to remove the item from the table.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

Board meeting notation: Mr. Robert Wasko, board vice president, asked Ms. Katherine Bockbrader, board counsel, to clarify the status of Mr. Wasko's previous motion to approve adoption of IPP009 to board policy during the October meeting. Mr. Wasko stated his motion went nowhere because the board approved a motion to table the item for consideration. Ms. Bockbrader affirmed that the motion to adopt the policy was tabled. Mr. Wasko introduced the FARB (Federal Association of Regulatory Boards) Model. The FARB Model includes a code of conduct that Mr. Wasko expressed the board may want to look into. Mr. Wasko suggested making a motion to request the executive director and board counsel to develop a draft, based on the FARB Model, for the board to consider at the next meeting. Mr. Wasko requested input from other board members. Mr. Jack Marchbanks, board member, questioned the board if there were guidelines accessible from Ohio Administrative Law. Mr. Marchbanks stated the board should review other agencies and regulatory boards codes of conduct they abide by. Ms. Bockbrader commented that she could research the topic. Ms. Bockbrader stated Ethics Laws applies to all agencies, but stated unfamiliarity with other boards formally adopting a detailed code of conduct; research would be needed. Mr. Marchbanks replied that the board should not only research and adopt federal guidelines, but research Ohio's as well. Ms. Bockbrader clarified the organization and mission of FARB. Mr. Marchbanks clarified that he did not mean to state FARB was a federal government agency. Ms. Bockbrader stated FARB was a respected organization. Mr. Marchbanks stated that he had prior experience using FARB during his tenure with Minority Development Financing Board. Ms. Vanessa Niekamp, executive director, clarified to Mr. Marchbanks that the information provided at last month's meeting was brief, and comprised of a few paragraphs based on and modeled from policies adopted by other small boards within the state. The FARB Model was presented as another option to provide meaning and intent of why the board was developing a code.

Motion to have the Executive Director and AAG work together to develop a draft code that mirrors the FARB Model for the board's consideration.

Motion by Robert Wasko, second by Gregory Boyer.

Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

Board meeting notation: Ms. Niekamp asked the board if they would like to have the draft presented in pieces as they are completed or presented as one completed draft for review. The board members replied with desire to see a completed document in its entirety as soon as possible, not necessarily in January.

6.04 New Legislation - Revisions Requested by OFDA

The board was provided the revision requests by OFDA regarding new legislation in the agenda item details for review. The document provided to the board may be located online at the following

link: [http://www.boarddocs.com/oh/boefd/Board.nsf/files/A5483Z7A440B/\\$file](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A5483Z7A440B/$file)

[/OFDA%20Memo%20to%20Rep%20Schaffer%20re%20funeral%20Board%20legislation.pdf](#)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer summarized the board's efforts of drafting new legislation to prevent and combat pre-need fraud. The board has been working together with Ohio Representative Tim Schaffer to introduce new regulatory measures concerning pre-paid pre-need funeral arrangements. Mr. Boyer stated OFDA (Ohio Funeral Directors Association) has also provided input to the proposed legislation by submitting revisions to the draft.

Mr. Boyer stated the first recommended revision is to change the make-up of the board. OFDA suggested that one of the licensed members of the board hold a crematory operator's license. Mr. Bryan Chandler, board secretary, agreed with the proposal; in so far as the licensee having a crematory operator permit, because the law states one member must have experience with crematory operation. However, Mr. Chandler is concerned about an additional proposal of a licensed member of the board holding a funeral director only license. Mr. Chandler suggested that this change would be unhelpful; especially regarding embalmer apprentice interviews. Mr. Chandler believes conducting interviews with apprentices seeking a dual license (embalming and funeral directing) would be challenging for a licensed member of the board that does not have embalming experience. Mr. Robert Wasko, board vice president, agreed with Mr. Chandler and stated that in the past, public board members participated in apprentice interviews and some offered incorrect advice to the apprentices about technical aspects of their training. Mr. Wasko believed this inexperience created confusion. Mr. Wasko commented that the current board was short staffed of licensed members. Mr. Wasko offered his itinerary for apprentice interviews for the day after the meeting of the board to the need for additional licensed members. Mr. Boyer asked Ms. Vanessa Niekamp, executive director, if the revision meant the crematory operator's permit would require a dual license. Ms. Niekamp responded by stating her understanding of the revision request meant that one of the dual licensed members would also hold a crematory operator's license.

Mr. Chandler, questioned another revision request from OFDA about the Crematory Review Board. Mr. Chandler stated the initial legislative draft suggested to disband this board. Mr. Chandler stated that he is the current chairperson of the Crematory Review Board and commented that the board meets annually, as required by law. He stated support to disband the board, based on the governor's Common Sense Initiative, or only convene when needed, because of the cost and lack of need for meeting annually. Mr. Wasko added his support to disband the Crematory Review Board as well. Mr. Wasko stated that he disagreed with OFDA's position because the Crematory Review Board usually had very few issues to discuss, and when issues arose before the Crematory Review Board, those issues had to be reviewed by the Board of Embalmers and Funeral Directors afterwards.

Mr. Boyer introduced another recommended revision from OFDA requiring the executive director to issue licenses without board consideration. OFDA recommended the executive director must issue a temporary permit upon receipt of application. Mr. Wasko remarked that this recommendation was to rubber stamp licenses upon request for a license and then ratify the action when the board meets next. Mr. Wasko stated disapproval of this revision because the executive director would not have discretion. Ms. Niekamp explained that the initial legislative language proposed issuing a temporary permit, at the discretion

of the executive director, to expedite a person's ability to practice. Most applicants for a temporary permit are not likely to have concerns related to their application for license. The few applicants with issues would wait for their application to be presented to the board for consideration. The board retains the right to deny final approval of license to any recipient of a temporary permit. Ms. Niekamp reiterated that the revision request by OFDA withdraws discretionary approval for the temporary permit and would require one to be issued.

Mr. Boyer introduced another recommended revision regarding the use of the terminology, "assisted" and "participated" coinciding to an apprentice and master relationship. Ms. Niekamp responded that this was a proposed amendment to current language in the law, not a revision the board proposed in the new legislation, to change the word "assisted" to "participated." Mr. Wasko asked what this amendment was regarding. Ms. Niekamp explained the requested change in terminology referred to when an apprentice assists the master embalmer or funeral director in performing the duties of the apprenticeship. Mr. Chandler asked Ms. Niekamp for a reason for the change. Ms. Niekamp replied that none was given by OFDA. She stated that an invitation was extended to OFDA to attend the meeting in case the board had questions about the revisions. Ms. Niekamp noted there was no one from OFDA there.

Mr. Jack Marchbanks, board member, inquired about how the board was involved in drafting, monitoring, and keeping apprised of amendments to the new legislation. Ms. Niekamp answered Mr. Marchbanks by stating the board proposed the language and she sought a sponsor for the language. Ms. Niekamp then presented the draft to Representative Schaffer's Office. Ms. Niekamp went on to explain communications between the two offices. Justin, an aide to Representative Schaffer, provided the memo of revisions from OFDA for the funeral board to consider.

Mr. Boyer described to Mr. Marchbanks another change OFDA recommended to the current law of placing one hundred percent (100%) of all payments received to fund a pre-need funeral contract held in trust. The proposed revision is to place ninety percent (90%) of all payments received so the other ten percent (10%) may be used to pay for services provided related to marketing and selling the contract. Mr. Boyer explained that ten percent (10%) is currently permitted to be collected as a transfer fee by the funeral home that writes the trust. Mr. Boyer provided examples of a consumer transferring a revocable and irrevocable trusts with guaranteed and non-guaranteed pricing scenarios. He also described the funeral board's decision to prohibit the co-mingling the consumers funds and the funeral home operating funds. The board wants one hundred percent (100%) of all payments received to a trust to remain intact when a family decides to use the money. Mr. Wasko stated that Ohio was one of the top six states in the nation recognized for having consumer friendly laws regarding pre-need. He declared one of the reasons Ohio is ranked so well is because the one hundred percent (100%) mandate.

Mr. Wasko believes Ohio's position will improve with the addition of the proposed prohibition of funeral homes accepting payments for pre-need funeral contracts. A consumer's payment going directly to a trust or insurance company will reduce the possibility of funds entering the funeral home's accounts. Mr. Chandler stated the new proposal should streamline the process of inspections and investigation as well.

Mr. Wasko commented that the board has been criticized by a current public board member that this board does not take pre-need seriously, and Mr. Wasko refuted that criticism.

Ms. Niekamp introduced another revision proposed by OFDA which would required a new application of the courtesy card permit, rather than a renewal. Mr. Wasko asked Ms. Niekamp to explain to Mr. Marchbanks about the courtesy card permit. Ms. Niekamp described the courtesy card permit requirements, privileges and limitations compared to obtaining a reciprocal license. She stated there are currently only four courtesy card permit holders in Ohio. Mr. Chandler added that the reciprocity license has greater advantage over the courtesy card permit. Ms. Niekamp stated more persons apply for the reciprocal license because it provides full privileges. Current law states that all valid licenses [issued by this board] are eligible for renewal. The revision request recommended by OFDA would require the courtesy card permit to not be renewable, thus requiring another application. Mr. Marchbanks suggested that OFDA and the Funeral Board are at a crossroads. Mr. Wasko responded that the relationship is the best it's ever been. He added that there are some things that can be agreed on- and some cannot. Ms. Niekamp agreed with Mr. Wasko and stated each organization has met regularly over the past few years to coordinate efforts to protect consumers, but each has a little different focus when it concerns their interests. Ms. Niekamp asked the board if there was any input or feedback to provide Representative Schaffer's Office. Mr. Boyer and Mr. Wasko suggested desire to know the purpose of the recommendation to require the courtesy card permit to expire.

Mr. Wasko introduced the revision recommendation from OFDA about the pre-need recovery fund cap of two million dollars (\$2,000,000.00). Mr. Wasko stated the amount to be too low and would be difficult for the board to administer. He suggested, based on past experiences with pre-need fraud investigations and to avoid administrative difficulties, to raise the cap to five million dollars (\$5,000,000.00). Ms. Niekamp asked if the board were in consensus about raising the cap to five million dollars with the fund pay ins at ten dollars (\$10.00) per contract written. Once the cap is met, a moratorium on collection of the per contract fee would be in effect. Whenever the total fund amount is less than five million dollars, the fee collection will resume. The board members agreed. Mr. Boyer used the OFDA trust as an example regarding a loss of deposit with a trust. He commented that original deposits to the OFDA trust are not guaranteed because their trust depends on the market. He stated original deposits to insurance are guaranteed. Mr. Boyer stated that if a family lost their deposit with a trust, the pre-need recovery fund could assist in covering the loss of their deposit.

Mr. Wasko explained to Mr. Marchbanks two ways a funeral home may fund a pre-paid pre-need funeral contract: a trust that requires a payment of sales tax due at writing of contract, and insurance product with a deferment of payment of tax. With the proposed change in the law requiring a consumer to pay directly to a trust or insurance company, Mr. Wasko suggested uncertainty about who will pay tax to the state on a trust transaction. He commented that a second step may be in store for the consumer. Mr. Boyer commented that the state currently likes to collect sales tax on pre-paid merchandise sooner rather than later. However, Mr. Boyer stated the state may benefit by waiting for the tax to be paid at a later time.

Mr. Marchbanks questioned the status of the current legislation. Ms. Niekamp replied that she will report back to Representative Schaffer's Office with the board's concerns. Ms. Niekamp advised it will be Representative Schaffer's decision as to what is incorporated into the legislation. Ms. Niekamp stated that she will continue to keep the board apprised of communications.

7. Tommy Taneff

7.01 Request from Taneff - Stenographer for all future Board Meetings

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Robert Wasko, board vice president, commented that he was going to say the same thing that he has previously said every time this has come up: He is not in favor of Mr. Taneff's request for a stenographer for future board meetings. Mr. Wasko stated he does not think it is needed, and those tens of thousands of dollars would be better utilized hiring an additional inspector to the board staff for pre-need investigations. Mr. Boyer stated he agreed with Mr. Wasko's comment.

7.02 Request from Taneff - Waiver of the Attorney-Client Privilege on the AG Memo on the Unauthorized Practice of Law

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer reminded the board that the memo dated July 22, 2015, written by Susan Walker, is a privileged and confidential attorney-client communication regarding an issue from the July 20, 2015 board meeting. Mr. Boyer stated that Mr. Taneff requested this agenda item be considered at the previous board meeting whereby the board voted to not waive the attorney-client privilege of the memo. Mr. Boyer remarked that the memo was advice given to the executive director and the board, and that advice has been followed since receipt from the Attorney General's Office. Mr. Boyer added that the memo was not about unauthorized practice of law; it was simply legal opinion or advice from the Attorney General's Office to the board.

8. Executive Session

8.01 Confer with Board's Attorney

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Robert Wasko, board vice president, asked to share information before the board moved on with the item. Mr. Wasko stated he wished Mr. Taneff was at the meeting because after the last board meeting there was a news article published in the Dayton Daily News. The news article referenced quotes from fellow board member Thomas Taneff that Mr. Wasko stated he found insulting. Mr. Wasko stated he wanted to address the article to be part of the record.

Mr. Wasko read from the article. Mr. Wasko stated in this article Mr. Taneff said, "They don't want the oversight. Tommy Taneff was appointed to the Ohio Board of Embalmers and Funeral Directors in December. He says he has struggled to get the board to take action against pre-paid funeral fraud". Mr. Wasko responded to the subtitle by stating, "False."

Mr. Wasko continued to read aloud Mr. Taneff's quotes from the article, "The guys that are in the industry, they don't want the oversight." Mr. Wasko again stated, "False. False is my comments".

Mr. Wasko continued to read aloud saying, "They don't want to be critiqued". Mr. Wasko stated, "False. We take critique every month".

Mr. Wasko continued to read aloud Mr. Taneff's quote saying, "Or second guess..." Mr. Wasko stated, "False. Again".

Mr. Wasko continued to read aloud saying, "...or question". Mr. Wasko stated, "False".

Mr. Wasko remarked, "As a public member of this board, if he really feels that we are not taking pre-need serious, then he needs to step up and take some action and worry about things like this instead of trying to terminate Ms. Niekamp every chance he gets. This upsets me. It's insulting, and since 2006 I have worked on making this preneed law and trying to stay ahead of any fraud that would take place. It is just an insulting thing to read."

Mr. Wasko declared, "I want to go on record, (pointing to the camera) I want to talk to the licensees that will see this film; that this board is concerned about this."

Mr. Wasko requested Ms. Vanessa Niekamp, executive director, to provide a report at the next meeting detailing the last two years of efforts from the board to eliminate pre-need fraud, the countless meeting we have had and policy changes. Mr. Wasko stated, "a person can not say this and go on and put this out there for the public, when it is not true. It's not true." Mr. Wasko explained he was looking for a list including meetings, policy changes, legislation efforts, etc, something that shows what we have done and that we are working on it. Ms. Niekamp asked Mr. Wasko if the report should include compliance cases stemming from pre-need fraud. Mr. Wasko agreed the compliance cases information would be helpful and stated, "It needs to be out there, because a person should not be allowed to just go out and say something like this. it's a person who sits on this board and is in meetings, and hears these things and it is just crazy." Ms. Niekamp stated that she would provide information for the last two years.

Mr. Jack Marchbanks, board member, acknowledged Mr. Wasko's concerns and comments to eliminate pre-need fraud, and remarked for the record that Mr. Taneff was not present to comment on the veracity or accuracy of his statements within the news article. Mr. Wasko replied with a desire that Mr. Taneff had been present.

Move for the Board to enter executive session pursuant to Ohio Revised Code Section 121.22(G)(3), to confer with the Board's attorney concerning a matter involving the Board that is the subject of pending or imminent court action.

Motion by Bryan E Chandler, second by Jack R Marchbanks.

Final Resolution: Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

Board meeting notation: Mr. Robert Wasko, board vice president, asked if the executive session motion also adjourns the regular meeting. Ms. Katherine Bockbrader, board counsel, replied that the board would need to return from executive session and then adjourn. Ms. Vanessa Niekamp, executive director, suggested the board meet in a different room because the partition doors of the current meeting room allow sound through. Ms. Bockbrader suggested the board remain in the room. Mr. Robert Wasko, board vice president, requested clarification from board counsel about executive session protocol. Ms Bockbrader confirmed that no notes or votes are to be taken, and the board may choose participants in the executive session. Litigation counsel from the Attorney General's Office joined the board during executive session.

REGULAR MEETING OF THE BOARD CALLED TO ENTER INTO EXECUTIVE SESSION AT 2:06 P.M.

REGULAR MEETING OF THE BOARD CALLED TO RECONVENE TO OPEN SESSION AT 3:08 P.M.

9. Adjournment

9.01 Adjourn the Meeting

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Robert Wasko, board vice president, and Mr. Jack Marchbanks, board member, each stated a conflict of schedule with the January 11, 2016 Meeting of the Board and cannot attend. Ms. Vanessa Niekamp, executive director, responded to their concern by stating she will confer with all board members and attempt to reschedule another date when a quorum can be secured.

Motion to adjourn the meeting.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Jack R Marchbanks, Bryan E Chandler, Gregory Boyer, Robert Wasko

Board meeting notation: The December 14, 2015 Meeting of the Board adjourned at 3:10 p.m.