

Arkansas Burial Association Board

MINUTES

Tuesday, December 3, 2013, 11:00 am  
101 East Capitol, Little Rock, AR  
Conference Room C  
Board Meeting

Chairman Normal Gilchrest called the meeting to order. Members present were: Vice-Chairman Steve Ballard, Scott Berna, Pete Sims, and R. W. Ocker. Members absent were: Dr. Jacki McCray, Charles "Chuck" Dearman, Melanie Heath Posey, and Sammie "Turner" James. Staff present: Amy S. Goode, Executive Secretary, James R. Brooke, Auditor and assistant attorney general Kat Hodge, Board Counsel.

1. Introduction of the Board and guests, meeting called to order

**2. Approval of October 2013 Minutes**

Motion made by Sims to approve the October 2013 minutes as written and distributed, seconded by Berna, all in favor. Motion carried.

**3. Approval of the October 2013 Trial Balance and DF&A Financial documents**

Motion made by Ballard to approve the October 2013 Trial Balance and DF&A Financial documents, seconded by Sims, all in favor. Motion carried.

**4. Board Discussion**

**a. Hank McNabb** – Secretary-Treasurer -Gregg Burial Association, Langford Burial Association, McNabb Burial Association, and Stuttgart Home Burial

Mr. McNabb explained to the Board he lives in Pocahontas and has four burial associations around the state that he is the secretary-treasurer. What he would like to do is set-up a new burial association like Heritage Burial did from Hot Springs. He is going to get copy of their agreement to base his agreement on; that he would like to present to the Board at a later date. Mr. McNabb would like to name it Dogwood Burial Association. It would have the four associations listed under that name on billing, etc. He has the Stuttgart Home Burial Association and that association has \$200,000 plus and the association only has \$50,000-\$60,000 in claims. He would like to set back that amount of money and offered paid policies to those policy holders. He would honor all policies at 100% no matter what funeral home they use. Chairman Gilchrest inquired what would happen with the rest of the money. Mr. McNabb stated that is the questions with a lot of these associations. He would like to use the remainder of the funds for his other weaker associations. Ballard inquired why those members would get a paid-up policy and not other members. That would go against current rules. Gilchrest further inquired how Mr. McNabb knows who is a member and who is not a member. It was stated from Sumner Brashears that the Board has no current regulations that allows for something of that nature and the Board would have to create a rule. Courtney Crouch stated they drafted out a plan with the help from Mr. Horne then presented to the Board. The Board sub-sequentially adopted the plan. Mr. McNabb could sit down with them to draft a plan to present to the Board. Mr. Brooke inquired of Mr. Crouch how they merged the associations, because one was super funded. They separated the assets of all the associations and continue to maintain those separately. They pool the assessments and investment income into another account. They use this account to pay all the claims and operating expense from. They continue to pay the same fees for each association and membership as part of the agreement with the Board.

**b. Rule Committee Update**

Executive Secretary stated the Rules Committee met again on November 22, 2013 via teleconference. The meeting was broke down into three categories, there was concerns about the pro-rata distribution. Mr. Horne

brought up the lawsuit in 1988 about the funds could not be co-mingled. Expenses were discussed thoroughly and that they should not be more than 25% are some opinions. Opt-out provision was added to the plan since there was no other option. Minutes of the November 22, 2013 meeting were distributed. This committee is scheduled to meet again Monday, December 9, 2013. The 3<sup>rd</sup> draft will have the distribution based on the amount of premiums paid in multiplied by length of time in association to determine the weight for each member then multiply that by the total amount; to determine the amount for each member. There was concern whether or not the McEuen case would apply. Ms. Hodge had read the case and is not convinced that the case would apply. On one hand if you're dissolving your not operating and there is concern if attorney fees would be considered operating expense after dissolution. It seems counterintuitive to say that an expense associated with dissolution is an operating expense. You're either operating or dissolving. When a plan is submitted the association would cease to operate other than paying claims during the 90 days after a plan is submitted for approval. Each member has to receive a specific letter informing them what they will be getting if they opt to dissolve. They have to be informed of the ramifications. The Board has a broad authority and has the authority to create a rule to dissolve. Currently, there is no rule or statute that addresses dissolution. Ms. Hodge further stated she does not believe a legal expense is an operating expense.

#### ***c. Fee Committee Update***

Executive Secretary stated that the committee met also on November 22, 2013 and all committee members were present except Turner James. Minutes of that meeting have been distributed. Executive Secretary explained that the committee adopted the smallest fee increase proposed to the committee. That will be the \$600 plus \$0.25 per member that will net approximately \$23,000 in additional revenue; this will offset the deficit and increase revenue for future purchases the Board will need to consider. The Board has not had an increase since 1996, so the proposed amount would be less than a penny a year.

Motion made by Sims to accept the recommendation presented by the fee committee, seconded by Berna, all in favor. Motion carried.

#### ***d. Attorney Update***

Drew County Burial Association lawsuit is still pending, but as you can see the committee has been working diligently to create a rule. The case was to be tried Monday, December 2, but there was a joint motion for continuance. The committee has another meeting scheduled December 9, 2013 to further discuss the rule.

### ***5. Raymond Family V. Liberty Burial Association, Lawrence Tolerson, Secretary-Treasurer***

Executive Secretary explained to the Board, that since the last meeting the secretary-treasurer from the Liberty Burial Association had officially received the claim and denied it. The Board determined there was not a complaint to consider until that was presented.

Motion made by Ocker to have secretary-treasurer pay the claim, after discussion and input by attorney, Mr. Ocker withdrew his motion.

Motion made by Berna, the Board has been presented sufficient evidence on the complaint file by the Raymond family, seconded by Ballard, all in favor. Motion carried.

### ***6. Next Meeting***

The Board will meet Wednesday, January 22, 2014 @ 11:00am.

### ***7. Adjournment***

Motion made by Ballard to adjourn since there was no further business to discuss, seconded by Berna, all in favor. Motion carried.

ATTEST:

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