

REGULAR BOARD MEETING

MINUTES

August 11, 2010

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on August 11, 2010 at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: J. T. Willoughby III, President; George Parrott, Vice President; Tryphina Wiseman, Secretary; Rudy Lea, Frank McCree, Mark Blake, Elizabeth Webber, Jack Briggs and Larry Andrews.

Also Present: Paul Harris, Executive Director; Stephen N. Dirksen, General Counsel; Pat Hayes with North Carolina Funeral Directors Association, Dorman Caudle with Carolina Donor Services, Fred Jordan with the NC Eye Bank, Herb Reichlin with Funeral Consumers Alliance of the Triangle, Dan Funchess, Funeral Service Licensee and Lyn Cochrane.

Mr. Willoughby called the meeting to order at 9:10, led the Pledge of Allegiance and had the invocation.

Mr. Willoughby read the Ethics Awareness & Conflict of Interest statement. Ms. Wiseman and Mr. Willoughby stated they had attended the National Funeral Directors & Morticians Association convention in Ft. Lauderdale, Florida.

Mr. Willoughby asked the guests to identify themselves.

The July minutes were presented for approval and Ms. Wiseman made the motion. Mr. Lea seconded and the motion carried.

Clinics: Staff has received confirmation from the National Guard Honor Guard and the Mexican Consulate that both will participate in the October clinic. This was for information only.

Exam Committee: Since the April meeting 27 applicants have scheduled to take the laws and rules exam. Four failed the first time and two of those have retaken the exam with both failing. The remainder either has passed or is yet to take the exam.

Preneed Committee: Mr. Andrews presented the regular report for information only. Mr. Briggs recused himself from the preneed report since his firm was one that staff examined. Mr. Andrews stated staff had received a request to transfer an irrevocable contract out of state and this request meets all the provisions of 21 NCAC 34D .0106. Committee was recommending approval of the transfer. Mr. Briggs made the motion to accept the recommendation and Ms. Webber seconded. The motion carried.

Staff received additional requests to discontinue bond consideration but has not been able to review the requests. The staff and committee may be able to conduct some or all reviews between the Board recess and 1:00 p.m. hearings. In the event reviews can be conducted, there may be recommendations following the hearing.

Finance and Personnel Committee: Mr. Briggs deferred to Mr. Harris since he was unable to participate in the Tuesday teleconference. Mr. Harris stated the Committee was presenting a vision plan for the staff and recommended obtaining the plan as a benefit at no cost to the staff with a review after the first plan year. Mr. Parrott made the motion to accept the recommendation. Mr. Lea seconded and the motion carried.

Mr. Harris stated staff has completed preliminary research into ways to move cases and hearings more quickly and would bring the recommendation to the Board at a later meeting. Discussion ensued.

Mr. Briggs presented the Financials and made the motion to accept as presented. Mr. Parrott seconded and the motion carried.

Laws, Rules and Legislation Committee: Mr. Briggs stated staff had conferred with Rules Review Staff to address the objections to proposed rules 21 NCAC 34A .0203 and 34B .0311 and technical correction to 34D .00203. The Committee recommends approval and Mr. Briggs made the motion to accept. Mr. Blake seconded and the motion carried.

Mr. Briggs deferred to Mr. Harris for discussion of a request from a person who has completed most of the subjects as prescribed for a funeral service license before this person completed the last class and received their Associate degree; however, the university he originally attended closed their funeral service program. The person would like to complete a class and sit for the licensing examination. Discussion ensued. Mr. Briggs made the motion to accept the Committee's recommendation to deny the request. Mr. Parrott seconded and the motion carried

Disciplinary Committee: Mr. Lea presented the report. Discussion ensued. Mr. Parrott made the motion to accept the recommendations of the Disciplinary Committee. Ms. Wiseman seconded. Further discussion ensued. Mr. Willoughby called for the vote and the motion carried. Mr. Parrott read the following cases that were considered—Case V10-029, V10-038, M10-016, M10-017 and M10-018.

Traineeship: Mr. Blake stated a trainee had been suspended and staff will schedule the trainee to meet with the committee in conjunction with the September meeting.

Other Committee Reports: There were none.

Attorney Report: Mr. Dirksen presented the report. The 11:00 hearing has requested a continuance and had met the criteria. The 1:00 p.m. hearing scheduled for today and 9:00 a.m. hearing scheduled for tomorrow will be heard. The 1:00 p.m. hearing scheduled for tomorrow may have consent order in the mail for today and may be cancelled. The Board received a Default Judgment for the Elmer Bass matter. Discussion ensued. Mr. Lea made the motion to accept the Attorney Report for information only. Ms. Wiseman seconded and the motion carried.

Executive Director's Report: Since the June Board meeting 58 reports have been filed.

New Funeral Establishments: Westmoreland Funeral Service & Cremations, Marion; Barefoot Cremations, Morehead City and Heritage Funeral Service, Inc., Greensboro.

Change of Ownership: Apex Funeral Directors, Apex; Lambeth-Troxler Funeral & Cremation Service, Greensboro and Hankins & Whittington Funeral Service, Charlotte.

New Chapels: Carlton L. Gray Chapel, Rolesville

New Removal/Transport Permits: Carlos Letrez Riddick, Plymouth; Timothy Campbell, Monroe and Robert Heussy, Gastonia.

New Funeral Service Licensees: Brandon Roberts, Jonathan Keener, Jason Wyatt, Bradley Burke, Robert Kuvin, and Robert Edwards.

Convert to Funeral Service: Nicholas Miller, Derrick Wilkins, Lynwood Tucker, and Joseph Smolenski III.

New Funeral Director Licensees: David Ridge, Steven Wilkes, Leigh Armentrout, Pamela Smith, Dustin Byers, Duane Thomas.

New Trainees: Michael Graham, Kelly Floyd, Earlie Reaves, Kelly Harvey, Sonya Tarlton, Jennifer Pope, Ricky Worley, Jr., Frank McFarland IV, Vanessa Boyles, Shellie Leedham, John Vogler, Travis Gobble, Daniel Harrell.

Staff Ethics Report: Mr. Harris stated he had contact with NCFDA members and staff and with members of FD&MA of NC, Inc.

The original building architect has been contacted for the interior renovation and suggested a fast track permit from City of Raleigh

The reports for the annual 93B-2 and 90-210.70 reports have been filed. The Internal Controls report has been filed with the Office of State Budget & Management and copies of the 2009 audit have been filed with the Department of Revenue, State Controller, State Publications and Office of State Budget & Management.

The response has been received regarding the complaint filed with the Medical Board regarding the physician attempting to impose a fee schedule in order to sign death certificates. The Medical Board found no violation of their law but a letter of concern was sent to the physician.

Preneed and FTC Reviews will be held August 26 in the Board office. The Board member Christmas party is scheduled for 6:30 p.m. on December 7.

Mr. Andrews made the motion to accept the Executive Director report for information only. Mr. Lea seconded and the motion carried.

New Business: Nominations for Crematory Authority elections closed August 2. Raymond "Russ" Hackett of Cotten Funeral Home & Crematory, New Bern and Phillip Lynn Sawyer of Hayworth-Miller Funeral Home & Crematory, Winston-Salem were the only people submitting nomination petitions. Since there are only two seats subject to election, pursuant to 21 NCAC 34C .0101(6)(E), the Board shall declare them elected. Mr. Andrews made the motion to elect Raymond Hackett and Phillip Sawyer to the Crematory Authority. Mr. Parrott seconded and the motion carried

Mr. Dirksen stated a vote was needed to approve the continuance for the 11:00 hearing. Mr. Briggs made the motion to grant the continuance and Ms. Webber seconded. The motion carried.

Old Business: There was none.

Informational Items: There was none.

Public Comment: There was none.

Mr. Willoughby made the motion to go into closed session to discuss a matter of attorney-client privilege and proposed settlement of the S&L and McGeachy case. Mr. Parrott seconded and the motion carried. Mr. McCree did not participate in the closed session or the vote to move into closed session.

Mr. Parrott made the motion to return to open session and Mr. Andrews seconded. The motion carried.

Mr. Andrews made the motion and Mr. Lea seconded to direct Mr. Dirksen to continue the settlement discussion on the S&L and McGeachy matters. The motion carried. The other matter was for information with no action taken.

Mr. Harris stated the Preneed Committee would need to meet during the lunch break to discuss a matter.

Mr. Willoughby recessed the meeting until the 1:00 hearing.

Following the conclusion of the 1:00 p.m. hearing, the Board reconvened the meeting. Mr. Harris stated there was a correction to the new establishments reported earlier. The Westmoreland facility was actually in Old Fort.

Mr. Harris also stated the Preened Committee had met during the lunch break. The Committee recommended approval of an out of state bank trust transfer. Mr. Andrews made the motion to accept the recommendation and Mr. McCree seconded. The motion carried.

The staff requested that the September meeting be set for the 8th only with no matters scheduled for the 9th. It is possible hearings started on the 8th may be carried over on the 9th. Mr. Briggs made the motion and Ms. Wiseman seconded. The motion carried.

Mr. Dirksen stated the Consent Order had been received regarding Case V09-028 and recommended adoption of the Order. Mr. Briggs made the motion to accept the recommendation and Mr. Andrews seconded. The motion carried.

Mr. Willoughby stated he had received a note from Frankie McCree, Jr. thanking the Board for their concern on the death of his wife, Janie, the daughter-in-law of Mr. McCree.

There being no further business, Mr. Briggs made the motion to adjourn the meeting and Ms. Wiseman seconded. The motion carried.

J. T. Willoughby III, President

Tryphina Wiseman, Secretary