

## REGULAR BOARD MEETING

### MINUTES

July 21, 2010

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on July 21, 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, and Jack Briggs. Larry Andrews was absent.

Also Present: Paul Harris, Executive Director; Stephen N. Dirksen, General Counsel; Pat Hayes with North Carolina Funeral Directors Association and Attorney Ben Brewington.

Mr. Willoughby called the meeting to order at 9:20, led the Pledge of Allegiance and had the invocation.

Mr. Willoughby read the Ethics Awareness & Conflict of Interest statement. Mr. Briggs attended the funeral service of Danny Carroll. Mr. Blake attended the visitation service of Mr. Carroll and the funeral service of staff member, Brad Marstellar. Mr. Willoughby and Ms. Wiseman attended the FD&MA Association of NC, Inc. convention.

Mr. Willoughby asked the guests to identify themselves.

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

Laws, Rules and Legislation Committee: Mr. Briggs stated the committee had held two meetings to discuss the Request for Declaratory Ruling from the NCFDA and were recommending that the Board issue a ruling and invite written comments from preneed establishments. The committee will meet again to consider the substance of the ruling. Mr. Blake seconded and the motion carried.

An unaffiliated licensee requested adding "dba Cremation Advocates" after their name. The committee considered this request and recommended denial. Mr. Briggs made the motion to accept this recommendation and Mr. Blake seconded. The motion carried.

Mr. Briggs recognized Mr. Harris to give a report on the status of pending rulemaking. Rules Review Commission objected to two proposed rules, 93B-2 reporting and license renewal for active military personnel. Board and RRC Staff will work together to address the objections and proposed changes will be brought to the Board for the August meeting. This will be sufficient to meet the August RRC meeting. All MBA rules are repealed effective August 1. RRC Staff registered one technical correction that was not provided to the Board's staff and caused a delay in approval of that rule.

Disciplinary Committee: Mr. Lea stated there was an addendum to the report. Discussion ensued. Mr. Lea made the motion to accept the report as presented and Ms. Wiseman seconded. The motion carried. The approval was for Cases V09-011, V10-002, V10-023, V10-024, V10-025, V10-027, V10-032, V10-033, M10-011, M10-012, M10-013, M10-014, M10-015, M10-007, V07-252 and concurrent cases V09-024 and V09-028. Mr. Lea referred

to the addendum. Discussion ensued. Mr. Briggs made the motion to accept the addendum. Mr. Blake seconded and the motion carried. The addendum was for Cases V09-038 with concurrent case M09-006, V09-048, V09-049 and concurrent case V09-054, V09-066 and M10-001.

Traineeship: Mr. Blake stated that the Committee had met with three trainees on suspension for late or unfiled reports. The Committee recommends lifting the suspensions August 1<sup>st</sup>. One trainee who registered in March 2010 will receive credit for the month of March only. The other trainees had completed the traineeship requirements and were continuing until meeting other licensing requirements. One will have to reapply with a new supervisor. Mr. Parrott made the motion to accept the recommendations. Ms. Webber seconded and the motion carried.

Executive Director's Report: Mr. Harris stated he had attended the FD&MA of NC, Inc. annual convention and had contact with lobbyists for NCFDA, FD&MA of NC, Inc., and members of the Legislature regarding HB76 and SB18. Mr. Harris has received an informal opinion from Ethics Commission regarding Jay Roberts serving as Chair of the Crematory Authority and President of NC Crematory Association. Since the Authority serves an advisory role and holds no independent power, Mr. Roberts may serve both positions. Mr. Harris stated that the point was moot since Mr. Roberts's term on the Authority ends this year and the Authority elected a new Chair on July 20.

Mr. Harris summarized the changes made in GS 90-210.124 and GS 130A-420 as a result of the passage of HB76. Once the Bill becomes law, Mr. Harris will send copies and an advisory letter to funeral providers and crematories in the state.

The Crematory Authority discussed a wide variety of issues during its meeting July 20. They recommended sending a letter to all crematories in the state and a copy of the applicable air quality regulations related to the 1600° minimum temperature required for crematories. The Authority also recommended changing all renewal applications and applications for new crematories to include an acknowledgement by the applicants for the minimum temperature requirements. Mr. Parrott made the motion to accept the recommendation and Mr. Lea seconded. The motion carried. The Authority also is recommending a newsletter for crematories since there are now 95 operating in North Carolina. The Authority also discussed statutory changes. Mr. Harris will bring a full report with the scope of the discussion from the Authority meeting at the August Board meeting.

The accountants advised consideration of a plan to treat the staff's contribution to the monthly health insurance premiums as a pretax deduction pursuant to IRS Section 125. Mr. Harris brought this to the Finance and Personnel Committee. The cost to draw up a plan is \$150 and requires Board approval. Mr. Briggs made the motion to accept the recommendation and Mr. Lea seconded. The motion carried.

Preneed and FTC Reviews will be held August 26 in the Board office.

New Business: Mr. Willoughby recognized Mr. Harris for presentation of the annual reports required by GS 93B-2 and GS 90-210.70. Mr. Parrott made the motion to approve the reports. Ms. Webber seconded and the motion carried.

Old Business: There was none.

Informational Items: Ethics Commission newsletter and Mr. Harris reminded Board members to obtain their Ethics training. Mr. Briggs mentioned the Laws and Rules

Committee discussion on the request for Declaratory Ruling from NCFDA and the staff's recommendation to seek a formal opinion from the Ethics Commission.

Mr. Harris mentioned there was a matter to discuss in closed session in order to consult with Mr. Dirksen regarding pending litigation and the S&L Funeral Homes, Kelvin McGeachy and Dennis Cromartie and Andy Hammond. Mr. Willoughby asked if anyone had public comments before the Board entered closed session and there were none. Mr. Briggs moved to go into closed session, seconded by Mr. Blake. The motion carried. Mr. McCree left the room and did not participate in the closed session because he did not participate in the previous hearing in the matter.

On a motion by Ms. Wiseman and a second by Mr. Parrott, the Board returned to open session. Mr. Willoughby stated that Mr. McCree was recused from and did not participate in the closed session. Mr. Harris stated Mr. McCree should not participate in the discussion or voting on the S&L/McGeachy matter. Mr. Parrott made the motion with second by Ms. Webber to direct Mr. Dirksen to enter into settlement discussions with the parties and their legal counsel, which would include an injunction. The motion carried.

With no further business to come before the Board, Mr. Willoughby declared the meeting in recess in order to set up for the hearings.

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J. T. Willoughby III, President

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Tryphina Wiseman, Secretary