

## REGULAR BOARD MEETING

### MINUTES

October 6, 2010

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on October 6, 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; Patricia Hayes with the North Carolina Funeral Directors Association, Dorman Caudle with Carolina Donor Services, Fred Jordan with NC Eye Bank, Clyde Foust a funeral licensee and Lyn Cochrane.

Mr. Willoughby called the meeting to order at 9:32 a.m., led the Pledge of Allegiance and had the invocation.

Mr. Willoughby read the Ethics Awareness & Conflict of Interest statement. Mr. Briggs, Mr. Blake and Mr. Lea recused themselves from discussion and voting on the request by NCFDA for a moratorium on refunds related to inflation proof contracts. Mr. Briggs also stated he had not participated in the Committee discussions or recommendations for the moratorium request.

Mr. Willoughby asked the guests to identify themselves and there was no public comment.

The September minutes were presented for approval and Ms. Wiseman made the motion to adopt them. Mr. Parrott seconded and the motion carried.

Clinics: Ms. Wiseman stated all plans were finalized for the October 19 clinic and asked if any Board member planned to attend to let her know after the meeting since help was needed with registration and monitoring. This is for information only.

Exam Committee: Mr. Willoughby stated that since the September meeting three applicants registered to take the laws and rules exam and all three passed. This report was for information only.

Finance and Personnel Committee: Mr. Briggs reported the Committee has a working draft of the 2011 budget and will continue to work with staff to develop a final recommendation.

Mr. Briggs presented and made the motion to accept the August 31, 2010 financials for approval since at the August meeting they were submitted as an unreconciled report. Ms. Webber seconded and the motion carried.

Laws, Rules and Legislation: Mr. Briggs stated the Committee met by teleconference last week and were recommending additional text to all applications for new crematories and all crematory renewal applications. The Committee also was recommending adding information to all facility related applications to define the difference, if any, between the

physical location and the mailing address. Mr. Briggs made the motion to accept the recommendations and Mr. Parrott seconded. The motion carried. NC Rules Review Commission approved and made effective proposed rules 21 NCAC 34B .0311 Special Procedures for Licensing of Active Military Personnel and 21 NCAC 34D .0203 Surety Bonds.

Mr. Briggs presented an addendum to the report regarding a new crematory that has passed Board inspection but does not have a permanent certificate of occupancy. The applicant is requesting a crematory permit and will voluntarily surrender if permanent certificate of occupancy is not issued within 30 days. The committee recommends approval and handling the matter through consent order to the applicant. After further explanation by Mr. Harris, Mr. Briggs made the motion to accept the recommendation. Mr. Parrott seconded and the motion carried.

At this time Mr. Blake, Mr. Briggs and Mr. Lee moved away from the table and Mr. Willoughby continued the report. The Committee met to discuss the request by NCFDA to place a moratorium on enforcement of preneed licensees issuing refunds for excess non-guaranteed funds within inflation-proof contracts. Committee recommends adopting a moratorium until January 1, 2011 for Board staff to research any limits on the "look-back" period of time on closed contracts. Staff will begin scheduling meetings as soon as possible with the laws and rules committee and interested parties to discuss statute, rule and contract changes. Inspectors will continue audit procedures to determine computations are being done correctly. Mr. McCree made the motion to accept the committee recommendations. Ms. Webber seconded and the motion carried. Staff will prepare a letter to inform the NCFDA.

Preneed Committee: Mr. Harris stated the committee had met by teleconference. Three consumers with irrevocable contracts have requested transfers out of state. Staff confirms the requests meet the requirements. Committee recommends ordering the revocation as requested for the transfers. Ms. Wiseman made the motion to accept the recommendation. Ms. Webber seconded and the motion carried.

Mr. Harris presented the regular report in Mr. Andrews' absence. Mr. Harris stated Ms. Pearson is now preparing inspectors' report with more information and he requested Board members to let him know if they wanted to continue with this information. Questions ensued. Mr. Willoughby called for the motion. Mr. Parrott made the motion to accept the report and Ms. Wiseman seconded. The motion carried.

Disciplinary Committee: Mr. Lea presented the report and addendum. Discussion ensued. Mr. Briggs made the motion to have Mr. Dirksen and Disciplinary Committee come up with guidelines for a summary suspension in cases of unlicensed practice. Mr. Parrott seconded and the motion carried. Mr. Parrott made the motion to accept the recommendations for V09-071, V10-040, V10-043, V10-045, V10-054, V10-030, V10-019, V10-037 and V10-047. Mr. Lea seconded and the motion carried. After review of the addendum, Ms. Wiseman made the motion to accept the recommendation for M10-018. Ms. Webber seconded. Discussion ensued. Mr. Willoughby called for the vote and the motion carried.

Traineeship: Mr. Blake stated there were eight trainees under suspension for late reports. One was eligible to certify her traineeship and had done so. One is no longer employed with the funeral home and has not submitted a new application. The Committee was scheduled to meet with four trainees this morning but only three were in attendance. The recommendations are: Trainee 1—lift suspension effective November 1; Trainee 2—suspension will remain in effect until staff can review the entire file for several

possible late reports. Following review, the committee will make a recommendation at the November Board meeting; Trainee 3—allow new traineeship with new firm November 1; Trainee 4—did not attend and will remain on suspension until meeting with the committee. Regarding the two remaining trainees, one has been late three times in the year and has already been suspended. She was informed further late reports were grounds for termination of the traineeship and a hearing is recommended. The last trainee has asked to remain on suspension until meeting with the committee in November due to poor health. Mr. Briggs made the motion to accept the recommendations of the Committee. Ms. Webber seconded and the motion carried.

Attorney Report: Mr. Dirksen presented the report. The 11:00 hearing today has been continued due to counsel having a prior appointment with the court system. The 1:00 hearing has been settled by consent order. The 9:00 hearing on Thursday has requested continuance. Mr. Parrott made the motion to approve the continuance and Mr. Lea seconded. The motion carried.

More information on the preneed payments and contracts for Melton-Riddle have been received and when staff reviews and has follow up with the consumers, it will be brought before the Board. Discussion ensued.

Mr. Blake made the motion to accept Mr. Dirksen's report. Ms. Webber seconded and the motion carried.

At this time Mr. Willoughby called for a five-minute recess and Mr. Foust departed the meeting.

Executive Director's Report: Mr. Harris apologized to Board and guests for delay with the start of the Board meeting.

Since the September Board meeting 26 reports have been filed. Lloyd Davis has also completed six reinspections.

New Funeral Home: Prominence Funeral Home, Thomasville

Change of location and Name: Cumbo-McDonald Memorial Funeral Home, Beaufort

New Embalming Facility: Chester Payton, Dunn

Closed: Barrows Funeral Home, Morehead City; Palmer Mortuary, Shelby; Gailles Funeral Home, Asheboro (location change pending); Parrish Funeral Home, Princeton

New Unaffiliated Licensee: Lori Chappell Funeral Director Licensee

New Funeral Service Licensees: Nathan Updike, James Brosnan, Heather Escamilla.

New Funeral Director Licensees: Shaun Smitherman, George Johnson.

New Trainees: Jordan Crowe, Debra Jewell, Cheryl Humphrey, David Harris, Roy Riggins, Jr., Adam Bliss, Raymond Marlow, Shana Cameron, David Oberley, Luciana Sellers-Brown, Brendan Sherrill.

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

A part-time data entry position is being considered for preneed contracts and a part-time legal assistant or paralegal position to help Mr. Dirksen. Mr. Harris will begin interviewing for the temporary agency referral positions next week.

The interior office construction is still being researched.

The CE Clinic at the Deep River Event Center in Greensboro is October 19. A Preneed/FTC Review will be scheduled before year end. Staff will begin working on statutory changes to present to Laws & Rules and then to the Board next week. Mr. Harris reminded Mr. Blake, Mr. Briggs and Mr. Lea to complete their September and October recusal forms. Discussion ensued.

Mr. Parrott made the motion to accept the report for information only. Mr. McCree seconded and the motion carried.

New Business: There was none.

Old Business: There was none.

Informational Items: Mr. Willoughby read a thank you note from retired employee Ruth Britt thanking the Board and staff for the plaque and silver tray she was presented last month.

Public Comment: There was none.

There being no further business, Mr. Parrott made the motion to adjourn the meeting and Mr. Lea seconded. The meeting was adjourned at 10:52 a.m.

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J. T. Willoughby III, President

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Tryphina Wiseman, Secretary