

## REGULAR BOARD MEETING

### MINUTES

May 19, 2010

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on May 19, 2010 at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

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

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

Mr. Willoughby called the meeting to order at 9:09 a.m. and led the Pledge of Allegiance and had the invocation. He then asked Ms. Webber to record the minutes in the absence of Ms. Wiseman.

Mr. Willoughby read the Ethics Awareness & Conflict of Interest statement. Mr. Willoughby stated he had attended the funeral of June McLaurin Jeffers, the NCFDA Convention and FD & MA of NC, Inc. District Meeting. Mr. Briggs and Mr. Lea stated they had attended the NCFDA Convention. Mr. Blake stated he only attended the NCFDA exhibits.

Mr. Willoughby asked the guests to identify themselves. There were no public comments. Mr. Willoughby then presented employee Elizabeth Stegall with a token of appreciation for her twenty years of service to the Board.

Mr. Willoughby convened the Public Hearing for proposed changes to 21 NCAC 34A, 34B, and 34D. There were no comments but one letter had been received from Townson-Rose Funeral Home, LLC. Mr. Willoughby adjourned the hearing and reconvened the Board meeting.

Mr. Willoughby, in Ms. Wiseman absence, presented the April minutes for approval. Mr. Briggs stated Page 2, Paragraph 10, Sentence 3 and 4 states Mr. Briggs made the motion and seconded the motion. Mr. Harris will have staff research this during a recess. Mr. Briggs made the motion to table the approval of the minutes until then. Mr. Lea seconded and the motion carried.

Mr. Brewington entered the meeting.

Exam Committee: Mr. Willoughby stated four candidates had taken the exam as of the end of April. All were first timers and three passed and one failed. Some applicants contacted the staff with concerns they had not heard from Castle regarding the exam schedules. There were some complications with uploading files to Castle servers. That problem has been corrected and Castle has sent all notices for eligible candidates. With regards to the issued related to Ms. Wiseman's employee, those involved the Conference exam provider, Pearson Vue. The Raleigh test site experienced technical difficulties just

before his arrival so they were not able to inform him before he traveled to Raleigh. The problems could not be corrected in a timely manner. He rescheduled that afternoon to take the exam. This was presented for information only.

Finance/Personnel: Mr. Briggs stated the Business Continuity/Contingency fund had been established and the principal payment of \$150,000 had been made on the mortgage note. Mr. Briggs deferred the meeting to Mr. Harris to discuss employee health benefits and the 2009 audit. Mr. Willoughby stated the auditors commended staff for their good records. Mr. Briggs submitted the April financials and made the motion to approve that and the auditors report. Mr. Lea seconded and the motion carried.

Preneed Committee: In the absence of Mr. Andrews, Mr. Harris presented the report. Mr. Harris stated a request had been received from a preneed establishment to discontinue the bond. The Preneed committee had met by teleconference Tuesday afternoon and was recommending approval of the request. Mr. Lea made the motion to approve the request and Mr. McCree seconded. The motion carried. The Committee also has held two meetings to discuss the request by NCFDA regarding non-guaranteed portion of the inflation proof preneed contracts. The Committee was recommending invite all interested parties, including NCFDA and FD & MA of NC, Inc., to request a Declaratory Ruling from the Board and to direct staff to request a ruling from NC Department of Revenue on whether failure to return funds originally collected but not used for sales taxes would violate NC law. Discussion ensued. Mr. Briggs made the motion to accept the recommendation of the committee. Ms. Webber seconded and the motion carried. Mr. Harris continued with the preneed report. It was submitted for information only.

Disciplinary Committee: Mr. Lea stated there was an addendum to the report. Mr. Briggs stated he would recuse himself from V08-074 due to his knowledge about the matter. Mr. Blake stated he would caution licensees from contacting Board members regarding disciplinary items since it caused the members to have to recuse themselves from discussion and voting on the items. Mr. Blake made the motion to remove V08-074 from the report and to vote on this separately. Mr. Lea seconded and the motion carried. Mr. Lea made the motion to remove M06-019 from the report in order that the Board may discuss the terms of the Consent Order in closed session. Mr. Briggs seconded and the motion carried. Mr. Lea made the motion to accept the recommendations not including V08-074, M06-019 and the addenda. Mr. Blake seconded and the motion carried. Mr. Briggs moved from the table and Ms. Webber made the motion to accept M08-074. Mr. Blake seconded and the motion carried. Mr. Briggs returned to the table and did not participate in the vote. Mr. Briggs made the motion to accept the addendum. Ms. Webber seconded and the motion carried. Mr. Lea stated the following cases were approved: V10-012, V10-016, V08-074, V09-060, V10-015, M10-007, M10-008, M10-009, M10-010, and M10-001.

Traineeship: Mr. Blake stated the trainee terminated by Board action last month has asked to start a traineeship with another firm and the committee was recommending approval allowing reapplication but no credit for cases or hours completed during the prior traineeship. Mr. Blake made the motion to approve and Mr. Lea seconded. The motion carried. A suspension letter has been issued to a trainee for being late in filing two successive months of work reports. This was for information only.

Other committee reports: None

Attorney Report: Mr. Dirksen presented his report and stated since there was not a quorum of Board members, there would be no hearings.

Executive Director's Report: Since the April Board Meeting 31 inspection/audit reports have been filed.

New Establishments: Groce Funeral Home on Tunnel Road, Asheville and Salem Funeral & Cremation Services of Reynolda Road, Winston-Salem.

Closed Establishments: Lightner Memorial Funeral Home, Goldsboro, and Lori Chappell Funeral Home, Raleigh.

New Transport/Removal: Kevin Brian Creech; Christopher Ryan Mills

Crematory Operators: Harnett Regional Crematory, LLC, Lillington

New FS Licensees: Dustin Osborne, Andy Ray.

New FD Licensee: Kimberly Teachey

New Trainees: Daniel Branson, Gerald Harris, Randall Moore, Jacob Robinson, Dana Overcash, Kimberly Pugh, Derk Cribbs, Barrance Roberts, William Boyd, Amanda Holshouser, Elwood Lancaster III, Adam Fisher, Joshua Moniz, Glenda Becton, Benjamin Jenkins, Marie-Louise Ramsey, Joseph Reneau, Arlene Brokaw, Jan Berry.

Staff Ethics report: Mr. Harris reported contact with NCFDA at the convention last week.

Mr. Harris stated he has not completed the specs for the office interior construction but has a meeting scheduled with the original contractor for next week. Staff is researching the removal of personal information such as social security number from preneed contracts after they have been entered on computer system. Mr. Harris has had discussion with Legislative staff regarding a study commission of the investment policies of Boards. Mr. Harris met with the Mexican Consulate General last week regarding funeral homes and the shipment of remains back to Mexico.

The FD&MA of NC, Inc. Convention is in Hickory June 15-17. Mr. Harris is schedule for a two hour CE seminar on the 15<sup>th</sup>. A draft of reports required by GS 93B-2 will be ready at the July meeting. The Crematory Authority is scheduled for a 10:00 a.m. meeting on July 20.

During the meeting with the auditors the QuickBooks backup was discussed. Mr. Harris also researched the computer system backup tapes to make sure they were backing up properly. Computer personnel verified this backup. Questions ensued. Mr. Willoughby suggested having the Mexican consulate provide CE at the Board Seminar in October. Mr. Blake requested an update on the Islamic Center that was discussed last year. Mr. Harris stated they would seek an establishment permit late. This report was for information only.

New Business: Mr. Harris presented the Petition for Nomination of Candidate for North Carolina Crematory Authority form for approval. Discussion ensued. Mr. Blake made the motion to accept the petition. Mr. Briggs seconded and the motion carried.

Old Business: There was none.

Informational Items: There were none.

Public Comment: There was none. Mr. Willoughby asked Mr. Brewington to introduce himself.

Mr. Lea made the motion to go into closed session to prevent the disclosure of privileged or confidential information pursuant to a North Carolina or United States law and to consult with Board legal counsel in order to preserve the attorney-client privilege to discuss pending litigation and settlement in the matters of The Board vs. Ronnie Riddle and Melton Riddle Funeral Home and Ronnie Riddle and Melton Riddle Funeral Home vs. the Board. Mr. Blake seconded and the motion carried.

Mr. Briggs made the motion to return to open session. Mr. Blake seconded and motion carried. Mr. Willoughby asked for Board's decision. Mr. Harris recommended using the case summary and recommendation contained in pages 3 and 4 of disciplinary report. Mr. Blake made a motion to accept the consent order and committee recommendation for Cases M06-019; V07-013; V07-028; V07-068 and V09-050 for Ronnie Riddle and Melton Riddle Funeral Home. Mr. Lea seconded and the motion carried.

Mr. Harris reported the correction to the minutes was Mr. Andrews made the motion in question and Mr. Briggs provided the second under the preneed report in April minutes. Mr. Briggs then made the motion to approve the April minutes with that correction. Mr. Lea seconded and the motion passed.

Mr. Dirksen informed the Board that the complainant in the matter of V09-060 wanted to be present when the matter was discussed, but she was not informed the matter was being considered today. Mr. Dirksen communicated that there would be no opportunity for her to comment on the matter prior to a Board decision. Mr. Briggs asked if we should rescind the decision and defer until next meeting. Mr. Harris stated staff had no objection. Mr. Blake moved to rescind the prior decision and defer action on V09-060 until the June meeting to accommodate the request. Second was made by Mr. Briggs. Motion carried.

Mr. Willoughby asked about the motion to reconsider a Board decision on Morrison-Studivent. Discussion ensued on whether a quorum was needed and if Mr. Blake and Mr. Lea could participate. Mr. Dirksen advised that Mr. Blake and Lea should not participate because they were the Disciplinary Committee and further advised Mr. Willoughby could render a decision on his own. Mr. Willoughby asked if Respondents would be present. Mr. Dirksen stated he had communicated with Respondent's counsel. The counsel said he would not be present. Mr. Dirksen did not know if Respondent would be here. Mr. Willoughby announced the meeting would be in recess until 11 a.m. in case the Respondent made an appearance.

Before the recess, Mr. Harris stated that Mr. Willoughby signed a consent order that should have been signed by Mr. Andrews when he was president. The order was properly approved by the Board in 2009 and there was precedent for this to be done.

The meeting was reconvened at 11:01 with Mr. Willoughby, Mr. McCree, Mr. Briggs and Ms. Webber present. Mr. Willoughby stated motion for reconsideration was denied.

Mr. Willoughby read a thank you note from Ms. Stegall.

With no further business to come before the Board, the meeting was adjourned.

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J. T. Willoughby III, President

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Tryphina Wiseman, Secretary