

REGULAR BOARD MEETING  
MINUTES

June 9, 2010

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on June 9, 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; Fred Jordan with the N. C. Eye Bank, Pat Hayes with North Carolina Funeral Directors Association, Herb Reichlin with the Funeral Consumers Alliance, Dorman Caudle with Carolina Donor Services, Jesse Ray with Ray & Allen Funeral Service, and Lyn Cochrane

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

Mr. Willoughby read the Ethics Awareness & Conflict of Interest statement. Mr. Briggs stated he would not participate in the discussion regarding the Board's health plan since he knew the representatives involved and also would not participate in one of the Disciplinary cases.

Mr. Willoughby asked the guests to identify themselves.

Ms. Wiseman thanked Ms. Webber for filling in for her in May and presented the minutes for approval. Mr. Parrott seconded and the motion carried.

Exam Committee: One additional applicant has taken and passed the laws and rules exam since the May Board meeting.

Finance/Personnel: Mr. Briggs stated the health plan representative mistakenly quoted earlier in the year the increase would be 6% when actually it was 16.2%. The Committee held two meetings to discuss this and recommend adoption of plan renewal designated as option 1. Mr. Briggs yielded to Mr. Harris for further explanation. Mr. Harris explained that the staff would be responsible for absorbing 5 to 6% of the renewal increase. Mr. Briggs made the motion to accept the recommendation of the Finance/Personnel Committee. Mr. Lea seconded and the motion carried. Mr. Briggs reviewed the financials. Discussion ensued. Mr. Briggs made the motion to accept the financials as presented. Mr. Blake seconded and the motion carried.

Laws, Rules and Legislation Committee: Mr. Briggs presented the Form to Request Declaratory Ruling and the Committee recommends approval. Mr. Harris informed the Board there was a backside to the sheet and it was not included in the Board Book. This was tabled until the recess to allow time to get the backside of the form.

The period for written comment ended June 1 for proposed changes to 21 NCAC 34A, 34B, and 34D. The one letter that was received with suggestions would have to be done by statute changes, not rulemaking. This will be submitted to Rules Review this month and should have an August 1<sup>st</sup> approval date.

Discussion for the motion for chapel ownership will be under New Business.

Preneed Committee: Mr. Andrews submitted the report for information only. Discussion ensued.

Disciplinary Committee: Mr. Lea stated there was an addendum to the report. Mr. Briggs recused himself from the addendum V09-031 and asked that it be separated from the report. Mr. Blake made the motion to approve this request. Ms. Webber seconded and the motion carried. It was noted V09-060 was rescinded at the May meeting and the complainant had been invited to attend the June meeting. Mr. Dirksen asked that this case be tabled until the end of the meeting in case the complainant was able to attend. Mr. Parrott made the motion and Mr. Briggs seconded. The motion carried. Discussion ensued and Mr. Parrott made the motion to approve V10-022, V09-065, V10-008, V10-014, V0-018 and V05-23. Mr. Blake seconded and the motion carried.

Mr. Briggs moved from the table. Ms. Wiseman made the motion to approve V09-031. Mr. Blake seconded and the motion carried. Mr. Briggs returned to the table and it was noted he did not participate in the vote.

Traineeship: The committee met prior to the Board meeting with a trainee who was suspended for two late reports within the registered traineeship year. Recommendation was to lift the suspension effective July 1 and trainee will not receive credit for May or June. Also discussed was the improvement of communication of the Board's concerns to trainee supervisors. Recommendation was that in addition to the copies of letters sent to trainees who are suspended, the supervisors will also receive a letter reinforcing the responsibilities of the supervisor. Mr. Blake made the motion to accept the committees' recommendations. Mr. Lea seconded and the motion carried.

Clinics: Ms. Wiseman stated the committee met by teleconference Tuesday morning to discuss the October clinic. The recommendation was to request the Mexican Consulate staff present at least one hour on the processes of shipping remains to Mexico and request the NC National Guard Honor Guard present a program on the honors they provide to veterans. Ms. Wiseman made the motion to accept the recommendation and Mr. Briggs seconded. Discussion ensued. Mr. Willoughby called for the vote and the motion carried. Mr. Blake stated the Mexican consulate was not located at 200 Yonkers Road.

Attorney Report: Mr. Dirksen presented the report. There were two Howell claims from the Recovery Fund. One claim has been approved but the claimant was unable to locate all the checks. Recommendation was to reimburse for only the checks that could be provided and if any others were found, to process them separately. The other claim was a new one. Mr. Andrews asked if there was any statute of limitation regarding recovery fund claims. Mr. Dirksen replied there was none and further discussion ensued. Mr. Andrews made the motion for Laws and Rules to research and discuss establishing a time limit for any claims to be filed. Mr. Lea seconded and the motion carried.

Mr. Blake made the motion to accept the two recovery fund claims. Ms. Webber seconded. Mr. Blake asked the amounts of the claims and Mr. Dirksen stated they were approximately \$8000. Mr. Willoughby called for the vote and the motion carried.

Mr. Willoughby called for a five-minute recess.

Executive Director's Report: Since the May 19 Board Meeting nineteen inspection/audit reports have been filed.

New Establishments: Hardee Mortuary Service, Wilmington (converted from outside embalming establishment)

New Unaffiliated: Joanne Marotta Funeral Service Licensee, Clayton

Crematory Operators: Gordon Funeral & Cremation Service, Monroe

New FD Licensee: April Miller

New Trainees: Shawn Worthington, Mark Johnson.

Staff Ethics report: Day to day contact with licensees who are members of both associations.

Mr. Harris stated he has spoken with architect for the building and has an appointment with him next week to discuss the interior office construction.

Mr. Harris has followed up with the Ethics Commission concerning the request for an advisory opinion on the Crematory Authority Chairman also serving as President of the NC Crematory Association. He was informed they never received the letter and another one was provided. The Crematory Authority nominations will be mailed next week.

The preneed annual reports are in better order and more accurate this year.

Mr. Harris will meet with representatives from the Campbell Law School within the next two weeks to discuss the requirements for office staff.

The FD&MA of NC, Inc. Convention is in Hickory, June 14- 17 and Mr. Harris will provide two hours of continuing education on the 15<sup>th</sup>. Mr. Harris and Inspector Carolyn Connor will be present in the exhibits hall booth during that time.

The Crematory Authority meets July 20<sup>th</sup>. There will be a brief report during the July Hearing Dates. The newsletter will be mailed mid-September with more information regarding the continuing education seminar. There is adequate seating but parking is limited.

A staff member with State Ethics Commission contacted Mr. Harris to discuss the Commission's research into how disciplinary matters and hearings conducted by Boards and Mr. Harris invited the staff member to attend the hearings scheduled for today.

This report is for information only.

At this time Mr. Harris provided the backside of the Request for Declaratory Ruling sheet for review. Mr. Briggs made the motion to approve the form with an approval date included at the bottom of the form. Ms. Webber seconded and the motion carried.

New Business: Mr. Briggs stated in the matter of the Petition for Approval of Chapel Operations for Ray and Allen Funeral Service, Committee was recommending denial of the petition. Mr. Briggs made the motion to accept the recommendation and Mr. Andrews seconded. The motion carried.

Old Business: Mr. Harris reported on the status of the preneed recovery claim that was tabled at the April meeting. As directed by the Board an inspector reviewed the preneed records from the same time period. The findings were that all funded preneeds had exactly the same manner of receipt and acknowledgement by the individual preneed sales licensee. In cases where there were prearrangements only without any funding a different type of worksheet was used. These findings support the staff and disciplinary committee belief that funds were paid by the purchaser. The firm changed ownership since the original transaction and the current owner of the funeral home has been written and asked to refund the money but there has been no response to the letter.

Mr. Blake stated he had a matter to discuss under New Business. An individual had called him regarding starting a funeral-consulting firm. The individual wanted information from the funeral home where Mr. Blake is employed. Mr. Harris stated he had also been contacted and explained to the individual the difference between consulting and activities that would require an unaffiliated license. Discussion ensued.

Informational Items: There were none.

Public Comment: Mr. Ray made comments regarding his petition of the chapel ownership.

Mr. Harris stated he and Mr. Dirksen had spoken and the Board should adopt the proposed rules before sending to Rules Review. Mr. Briggs made the motion to adopt the rules included in Section 2 of the Notice of Text and repeal the rules also included under Section 2. Ms. Wiseman seconded and the motion carried.

Mr. Willoughby stated since there had been no response from the complainant the tabled Disciplinary Committee item would be voted upon. Mr. Lea made the motion to accept V09-060 as part of the Disciplinary Committee Report. Mr. Blake seconded and the motion carried. Questions ensued regarding the 11:00 and 1:00 hearings. Mr. Dirksen stated Board approval of consent orders took care of the matters scheduled for 11:00 and 1:00.

With no further business to come before the Board, Mr. Parrott made the motion to adjourn the meeting. Ms. Wiseman seconded and the motion carried.

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J. T. Willoughby III, President

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Tryphina Wiseman, Secretary