

## REGULAR BOARD MEETING

### MINUTES

August 10, 2011

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on August 10, 2011 at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: Tryphina Wiseman, Vice President; Elizabeth Webber, Secretary; Rudy Lea, Frank McCree, Jack Briggs, Harris High, Ken Stainback and J. T. Willoughby III. George Parrott was absent.

Also Present: Paul Harris, Executive Director; Stephen N. Dirksen, General Counsel; Dorman Caudle with Carolina Donor Services, Fred Jordan with NC Eye Bank and Pat Hayes with NCFDA.

Ms. Wiseman called the meeting to order at 9:22 and led the Pledge of Allegiance. She then gave the invocation.

Ms. Wiseman read the Ethics Awareness & Conflict of Interest statement. Ms. Wiseman stated she attended the National Funeral Directors & Morticians Association convention in Atlanta, Mr. Willoughby stated he also attended the National Funeral Directors & Morticians Association convention and Ms. Webber stated she attended the board meeting of the Funeral Consumers Alliance of the Triangle. Mr. Dirksen stated Mr. Lea needed to recuse himself for a matter on the disciplinary report case V11-032 and Mr. Lea acknowledged in agreement.

Ms. Wiseman asked if there were public comments and asked visitors to identify themselves. There were no comments other than guest introductions.

Mrs. Webber presented the minutes from the July meeting and asked if there were any corrections. There were none. Mr. High made the motion to approve the minutes and Mr. Lea seconded. The motion carried.

Exam Committee: Ms. Wiseman recognized Ms. Webber to give the committee report. Since the June meeting, 16 applicants have taken the laws and rules examination. All were first time examinations. One failed and reviewed their missed questions. Staff has completed its review of the laws and rules examination statistical analysis provided by Castle Worldwide. The analysis was for the 110 exams taken between January 2010 and May 2011. There are several questions deemed "too easy" and one deemed "too difficult". These assessments are based on how often the "too easy" questions are answered correctly and how often the "too difficult" ones are answered incorrectly. Staff and committee will review the questions and prepare a report for a future Board meeting.

Finance and Personnel: Ms. Wiseman recognized Mr. Briggs to present the committee report. The committee met by teleconference to discuss the recent request for an audio version of the law book from an applicant that states they are legally blind. Staff will ask for medical certification of this, however ADA requires the Board to produce a version of the law book that can be used by those with disabilities. Staff has researched and found text-to-speech software that requires a separate distribution license. The cost of the distribution license is \$1000.00 per year. The committee recommends approval of the license fee now and budget for its renewal in 2012 but holding payment of the license fee in 2012 until the version is distributed. Discussion ensued. Mr. Harris clarified that the conversion would be done from laws and regulations available in the public domain, such as the General Assembly website, and not directly from the 2010 Edition of the law book due to copy right laws. Mr. Briggs made a motion to approve the recommendation. Mr. Willoughby seconded and the motion carried.

Mr. Briggs asked Mr. Harris to review the financial reports due to a formatting change. Mr. Harris summarized the reports noting some expense categories that would be over budget at year's end

including the computer support expenses due to unexpected problems that required additional expenses. Overall expenses are under budget for the year. Mr. Harris also discussed possibly changing from monthly reporting of the breakdown of revenues and expenses as they apply to each area of budget administration, at need, pre-need, crematory, general and MBA. Mr. Briggs suggested no more frequently than semi-annually. Mr. Harris suggested the matter be studied by the committee for future consideration. Discussion ensued. Mr. Briggs made the motion to approve the reports and Mr. High seconded. The motion passed.

Laws and Rules: Ms. Wiseman asked Mr. Briggs to continue with the committee report. The Board received a request from David Twiford regarding clarification when cremating the body of a person who died outside of North Carolina. The committee met by teleconference to discuss the matter. The committee recommended staff to draft an advisory opinion that North Carolina crematories and funeral homes must comply with North Carolina laws and regulations when cremating bodies of persons dying in other jurisdictions and as long as the other jurisdiction granted permission to remove the body, that jurisdiction cannot enforce their laws and regulations in North Carolina. The draft will be presented by the staff to the Board for consideration at the September meeting. Mr. Briggs asked Mr. Harris to comment. Mr. Harris gave additional information related to other licensee contact with Board staff related to similar issues. Mr. Harris clarified that while the opinion would be written to Mr. Twiford it would be used in other cases when questions arise. Mr. Briggs made a motion to approve the recommendation and Mr. Stainback seconded. The motion passed.

Mr. Briggs asked Mr. Harris to report on the other committee discussion about a manager's responsibility for an establishment and possible rulemaking or legislative changes to define those responsibilities in a more focused way. Mr. Harris then reported on the General Assembly vote to override the Governor's veto of Senate bill 781 Regulatory Reform Act of 2011 (Session Law 2011-398) Changes for rule making will be effective October 1, 2011 and those for contested cases at OAH will be effective January 1, 2012. Office of state budget and management has published its preliminary report for rules and rulemaking. The board will need to begin review of all rules other than the 21 NCAC 34A .0105 PUBLIC INSPECTION OF MATERIALS and 21 NCAC 34A .0102 PURPOSE OF BOARD which were approved for repeal last November. This was for information only.

Traineeship: Ms. Wiseman reported Since the July meeting staff issued three suspension letters. Two supervisors contacted the staff informing them the trainees were no longer working as trainees. The third suspension letter was sent July 26 and staff has not been contacted as of the Board meeting. This was for information only.

Preneed Committee: Ms. Wiseman recognized Mr. Willoughby for the committee report. This was for information only.

Disciplinary Committee: Ms. Wiseman recognized Mr. Lea for the report. Mr. Lea presented the report, stated there was an addendum that would be handled separately and restated he would recuse himself from V11-032. Discussion ensued.

Mr. Briggs made the motion to remove V11-032, from the report and vote on that separately. Ms. Webber seconded and the motion carried. Mr. Lea did not participate in the discussion or voting.

Mr. Willoughby made the motion to accept the recommendations for V11-046, V11-047, V11-056, V11-039, V11-045, and M11-025. Mr. Lea seconded and the motion carried.

Mr. Briggs made the motion to accept V11-032. Ms. Webber seconded and the motion carried. Mr. Lea did not participate in discussion or voting.

Ms. Wiseman called for consideration of the addendum for case M11-001. Mr. Willoughby made a motion to approve the recommendation. Mr. Lea. seconded and the motion carried.

Attorney Report: Ms. Wiseman recognized Mr. Dirksen for the report. 129 current active files, and the projected active files after the Board meeting will be 125. There are 37 files pending investigation, 38

hearings pending, 6 files in post hearing status and 26 recovery fund claims pending. 24 new files opened since the June meeting, 2 complaints noticed for hearing and one consent order received. The disciplinary committee reviewed 9 cases since the last meeting. Mr. Dirksen stated the matter for hearing set at 1 p.m. was possibly settled and he was waiting the arrival of a signed consent order for Board consideration prior to the hearing. The report was given for information only.

Executive Directors Report: Ms. Wiseman recognized Mr. Harris. He stated since the June meeting twenty-five reports have been filed and reviewed. He still has a number to review.

Establishment Changes: Closed: Wesley Heights Mortuary Service, Charlotte; New: Lori Chappell Funeral Home, Henderson and Haskins Funeral Home, Goldsboro

New Chapels: Gailes Chapel - Asheboro

Crematory: Optima Cremations, LLC, Greensboro

Unaffiliated Licensee: Norman Whitted, Funeral Director

Mr. Harris reviewed the inspector's monthly status reports and mentioned a recent FTC staff statement that funeral homes must put the disclosure "A complete price list will be provided at the funeral home" separately with caskets, outer burial containers and other containers which may have to be listed. According to the FTC staff, firms that do not have this disclosure placed as described are not in compliance with the Funeral Rule.

New Funeral Service Licensees: Michael Anthony St. Onge, Jason Carlisle Rhodes, William Daniel Lipford, George Da'Ronte D'Nell Johnson, Christopher Sloan Hargett, Yolanda Smith, Robert James Parr, Timothy L. Stinnett, John Lane LeVan, Chantesh Seville Allen

New Funeral Director Licensees: Brian Jennings Ballard, Avala Luetta Nealy, Ryan Sherrill Bumgarner.

New Trainees: Regina Monique Brown Tew, Harry James, Jr., Jamil Neal Taylor, Emily Elizabeth Kahlert, Donald Edward Harris, Larry Everett Jackson, Amy Lynn Richards, Cedric Harold Morris, Roger Wayne Marion, Danny Eason, Elaine Casey Tipton, Daniel Paul Smith, Tyler Blake Noblitt, Joseph Henry Coleman, Loretta Franceen Butler, Delton Jerrence Agnor, Lucus Hunter Widenhouse, Betty Foxx Foust, Michelle Givens Johnson, Gregory Keith York, Drew McKenzie Shaver, Donnie Darrell Johnson.

Transport/removal: Jeffery Earl Davis

Staff continues to receive inquiries from licensees in other states wishing to obtain a North Carolina license.

Staff Ethics report: Contact with representatives from FD&MA of NC, Inc., NCFDA and FCAT during the meeting on electronic death registrations.

Mr. Harris updated the Board on the paralegal hiring process.

Mr. Harris reported on the July 26 meeting on electronic death registration. It appears this process will take a few more years with funding being the highest priority. All interested parties need to help bring this to the attention of the General Assembly. Immediate efforts will be to draft proposed law changes to address some of the issues currently experienced. Discussion ensued.

There were 10 participants for the preneed review and about 6 for FTC on July 27. The Crematory Review is set for September 22, 2011.

Mr. Harris has completed the Internal Controls report for OSBM and has a suggested change that requires Board action. When cash is received by Board staff either in person or by mail, staff shall

immediately find a second staff member to witness the transaction and provide a second confirming count of the cash before a receipt is issued. Ms. Wiseman asked if a motion was needed regarding action the cash receipts. Mr. High made the motion to accept Mr. Harris's recommendation and Mr. Lea seconded. The motion carried.

New Business: Ms. Wiseman recognized Mr. Harris to discuss the Crematory Authority Ballot and elections. Mr. Harris referred to the ballot draft and stated the Board needed to set the date on which ballots would be mailed, the date and time deadline for ballots to be returned and the date place and time the ballots will be canvasses. Discussion ensued. Ms. Wiseman asked for a motion on the recommendation. Mr. Willoughby made a motion that ballots be mailed on October 3, 2011, that ballots be returned by November 4, 2011 (postmarked if mailed, delivered by 4:30 pm to the Board office if hand carried) and canvassing would be conducted at 11 a.m. November 9, 2011 in the Board room.

Old Business: There was no old business.

Informational Items: Ms. Wiseman asked Mr. Harris about informational items. He referred to the letters from the Ethics Commission on Rev. John Shields and Mr. James Combs who were appointed as public members by the General Assembly on recommendation of the Senate Pro Tempore and Speaker of the House respectively. Terms will begin January 1, 2012. This was for information only. Discussion ensued.

Mr. Briggs commented on consideration of future law and rules changes for unaffiliated licensees. Mr. Harris mentioned possible OSHA biohazard/bloodborne pathogen training for transport/ removal permit holders as well as requiring personal protective equipment for them. Mr. Briggs asked Mr. Harris to discuss the development of separate databases for unaffiliated and transport/removal permit holders. Mr. Miranda, the database developer, has provided a quote of about sixteen thousand dollars. Mr. Harris will discuss a timeline of development with Mr. Miranda that would complete the work near the end of 2011 so the expense could be placed in 2012 budget. Mr. Harris also discussed the process of finding a contractor for the interior construction project. Discussion ensued. Ms. Wiseman asked if there were other comments, Mr. Willoughby asked about former Board member Larry Andrews following the death of his mother. Mr. Harris informed members of the death of Tanya Pearson's grandmother and that Ms. Stegall was preparing to return to work. Mr. Briggs mentioned the death of the daughter of Charles Graves immediate past president of NCFDA. Discussion ensued.

Public Comment: There was none.

Ms. Wiseman declared the meeting in recess at 10:42 and until the parties were present for the 1 p.m. hearing. At 12:55, Ms. Wiseman reconvened the meeting by asking for a motion to return to the business session. Ms. Webber made the motion and Mr. Willoughby seconded. The motion passed. Ms. Wiseman recognized Mr. Dirksen and he distributed copies of the case summary. Discussion ensued. Mr. Willoughby made a motion to accept the recommendation for V10-078 and Mr. Stainback seconded. The motion passed.

With no further business, Ms. Wiseman declared the meeting adjourned at 1:07 p.m.

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George S. Parrott, President

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Elizabeth S. Webber, Secretary