



NORTH CAROLINA
BOARD OF FUNERAL SERVICE

Minutes

September 14, 2022, Board Meeting

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting on September 14, 2022, at the NC Board of Funeral Service office suite at 1033 Wade Avenue, Suite 108, Raleigh, NC 27605.

Present: Chris Watson, President; Steven Lyons, Vice-President; Thomas Hilderbrand, Secretary; Don Brown; Mark Blake; Steve Herndon; LeShekia Coleman; Darrell McCormick; and Robert Jansen.

Staff and Counsel: Amy Acord, Assistant Director; Catherine Lee, General Counsel; and Brett Lisenbee, Compliance Officer.

Guests and Visitors: Mr. Chase Noble, NC Funeral Directors Association.

Mr. Watson called the meeting to order at 9:05 a.m. and led members and staff in a recitation of the Pledge of Allegiance followed by the invocation which Dr. Lyons offered. He proceeded by reading the Statement of Ethics and asked if any members would be recusing themselves. None recused. Mr. Watson then asked if any guests were present and if they wished to offer any public comment. Mr. Chase Noble from the NCFDA introduced himself.

Mr. Watson continued and asked Mr. Hilderbrand to present the minutes from the August 10, 2022, Board meeting.

Approval of Minutes

Mr. Hilderbrand reported that Board staff had sent the minutes to each member for their review prior to the meeting. He asked if there were any questions or changes to the minutes. Hearing none, he offered a motion.

Upon a motion by Mr. Hilderbrand and a second by Mr. Herndon, the Board voted to adopt the August 10, 2022, minutes as presented.

Mr. Watson recognized Mr. Blake for the Finance and Personnel Committee report.

Finance and Personnel Committee Report

Mr. Blake reported that the Finance and Personnel Committee met on September 8, 2022, to review the financial reports for the period ending July 2022. He also noted that General Counsel Catherine Lee joined the Committee to announce that Nichols, Choi and Lee would be merging with another law firm effective October 1, 2022. Mr. Blake recognized Ms. Lee for additional comment regarding her announcement. Ms. Lee conveyed appreciation to the Board on behalf of Nichols, Choi and Lee for the long-term relationship in providing legal counsel and representation in outside litigation for the Board. She assured the Board that the firm's services to the Board would continue without interruption and would be a seamless transition. Board members expressed support and appreciation for Ms. Lee's work on behalf of the Board and offered congratulations to Nichols, Choi and Lee upon their merger with Hedrick, Gardner, Kincheloe & Garofalo LLP.

Mr. Blake then recognized Ms. Acord for a summary of the July 2022 financial reports. He noted that Mr. Davis was absent from the meeting resulting from a recent medical procedure.

Ms. Acord opened her summary by reporting to the Committee that the Board's net position as reflected in the Statement of Net Position is strong and continues to show strength based on the Unrestricted Fund balance which represents approximately eight (8) months of reserve operating capital. Ms. Acord then reported that the Preneed Recovery Trust fund balance is \$492,055.77 as of July 31, 2022, which is an increase over the balance shown for the same period in 2021. The 2021 balance was \$417,981.91. Ms. Acord also reported that the total liabilities and net position as of July 31, 2022, was \$2,727,303.74, which is an increase over the balance shown for the same period in 2021. The 2021 balance was \$2,547,163.04. Mr. Blake invited any questions or comments from the Committee. No questions or comments were offered. Mr. Blake asked Ms. Acord to continue with a summary of the Statement of Revenues and Expenses.

Ms. Acord noted that the revenues as well as operating expenses were nearly the same as for those reported in 2021. She said that the Total Revenue collections were at 78.1% of the projected total for FY2022 which compared to 78.5% for 2021. She noted that the Cremation Fees and Preneed Contract fees continue to exceed the rates seen since 2021 which indicated that revenue collections will hopefully exceed the projected totals for revenue at the beginning of the fiscal year. She further noted that the Operating Expenses YTD were at 58.3% of the total projected which means that the expenses are 1% over budget. Mr. Blake asked Ms. Acord about the total fees reported for cremations and preneed contract registrations, and Ms. Acord indicated that these collections were tracking at rates of collection similar to those in 2021. Mr. Blake invited questions or comments from the Board. Hearing none, he offered a motion for approval of the June financial reports as presented.

Upon a motion by Mr. Blake and a second by Dr. Lyons, the Board voted unanimously to approve the financial reports for the period ending July 2022.

Mr. Watson then recognized Mr. Herndon for the Disciplinary Committee report.

Disciplinary Committee Report

Mr. Herndon said that he and Dr. Lyons met on September 9, 2022, to consider preliminary disciplinary recommendations from staff as follows:

Summary Dismissals

C22-0066 C22-0067

Dismissals

C22-0058 C22-0059 C22-0065 C22-0068

Letters of Caution

M22-0056

Notice of Hearing

M22-0051

Other

M22-0055 M22-0057

Mr. Herndon offered a motion for approval of the Disciplinary Committee's recommendations as presented.

Upon a motion by Mr. Herndon and a second by Mr. Blake, the Board voted to approve the recommendations as presented by the Disciplinary Committee. Mr. Watson was recused from voting in the matter of Case Number C22-0068.

Mr. Watson continued the meeting and recognized Ms. Acord for any Board staff updates:

Ms. Acord reported that staff are working on preparations and pre-planning for the 2023 license and permit renewal cycle. She briefly explained the need for staff to prepare renewal application forms and to incorporate improvements based on experience from the 2022 renewal cycle. Mr. Herndon asked about the status of the proposed online portal for submission of preneed contracts, and Ms. Acord reported that staff continue to explore cost-effective options for the development and implementation of this feature. She noted that staff had preliminary discussions with an IT firm that was initially thought to be a viable and affordable option to develop a portal not directly connected to the Board's licensing management system known as iGov. Ms. Acord explained that this option presented a number of challenges in assuring timely and responsive connectivity between the two systems. She said that staff are now exploring the feasibility of iGov assuming responsibility for the construction and implementation of a preneed contract submission portal and that discussions are in progress.

Mr. Watson thanked Ms. Acord for her report and recognized Ms. Lee for the Legal Case Report.

Legal Case Report

DISCIPLINARY MATTERS

Current Active Cases: 44

Pending Investigation: 18
Pending Review by Disciplinary Committee: 0
Pending Dispositive Action: 10
Pending Hearing: 11
Post-Hearing: 2
Other: 3

New files opened since last Board meeting: 18

Notices of Hearing sent since last Board meeting: 3

Consent Orders received since last Board meeting: 1

Cases reviewed by Disciplinary Committee since last Board meeting: 10

PRENEED RECOVERY FUND CLAIMS

Current Active Preneed Recovery Fund Claims: 1

Pending Investigation: 1
Pending Dispositive Action: 0

Preneed Recovery Fund Claims received since last Board meeting: 1

Preneed Recovery Fund Claims re-opened since last Board meeting: 0

Preneed Recovery Fund Claims reviewed by Committee since last Board meeting: 0

Ms. Lee notified the Board that she had received a call from a representative of the Funeral Directors and Morticians Association of NC regarding concerns about the timeliness of responses from insurance companies to funeral homes requesting information. Ms. Lee noted that she was conveying the concern as an information item for the Board and noted that the FDMANC would work in collaboration with the NC Department of Insurance in addressing their concerns.

Old Business and New Business

Mr. Watson asked for any Old Business items. None were offered. Mr. Watson then asked for any New Business items. Mr. Blake announced that a meeting had recently occurred in Johnston County that included members of the General Assembly, funeral licensees, transporters, and representatives from the NC Department of Health & Human Services. He said that he and Mr. Watson were in attendance as licensees of the Board and not as representatives of the Board. He conveyed that the meeting focused on a number of issues ranging from licensees' concerns regarding the timely release of decedents from the medical examiner's office to funeral homes; timeliness of toxicology reports and death certificates from the Office of the Chief Medical Examiner; and concerns regarding some local Departments of Health still requiring a hard-copy Notice of Death before accepting a death certificate. Mr. Watson noted that the two professional associations would play an important role in addressing these concerns appropriately with members of the General Assembly. He and Mr. Blake indicated that the meeting was productive and helpful in addressing issues that the Board has discussed in past months regarding the implementation of NCDAVE and issues pertaining to the Office of the Chief Medical Examiner.

Mr. Watson then announced that the Board would convene in closed session to consider matters requiring attorney-client confidentiality pursuant to NCGS 143-318.11.

Upon a motion by Mr. Herndon and a second by Mr. Brown, the Board voted to convene in closed session to consider matters requiring attorney-client confidentiality.

Upon a motion by Dr. Lyons and a second by Mr. McCormick, the Board voted to reconvene in open session.

Mr. Watson invited any motions pertaining to the matters discussed in closed session.

Upon a motion by Mr. Herndon and a second by Mr. Blake, the Board voted to accept a proposed Consent Judgment in the matter of 22 CVS 614, NC Board of Funeral Service v. Simmons et. al.

Upon a motion by Mr. Herndon and a second by Mr. Blake, the Board voted to accept a Consent Order in settlement of Board Case Number M21-0104, Franklin O. Hanes d/b/a Hanes Funeral Service and Franklin O. Hanes.

Upon a motion by Mr. Herndon and a second by Mr. Blake, the Board voted to accept a Consent Order in settlement of Board Case Number M21-0107, Gilliam Memorial Mortuary, Inc. and Janice Ray Owens. Mr. Brown was recused from voting in this matter.

Mr. Watson then announced a recess in the Board's deliberations un 9:30 a.m. on Thursday, September 15, 2022.

The Board reconvened at 9:30 a.m. on Thursday, September 15, 2022. Mr. Watson called the meeting to order and announced that the Board would hear the matter of Board Case Number M22-0015, Dirk Malcolm Thompson, d/b/a Dirk M. Thompson Mortuary and Dirk Malcolm Thompson. Following the hearing, Mr. Watson invited a motion for the Board to convene in closed session to deliberate on the referenced matter.

Upon a motion by Mr. Blake and a second by Mr. McCormick, the Board convened in closed session to deliberate on the matter of Board Case Number M22-0015.

Upon proper motion and vote, the Board voted to reconvene in open session. Mr. Watson invited any motions pertaining to the matter discussed in closed session.

Upon proper motion and vote, the Board voted in the matter of Board Case Number M22-0015 to place respondent establishment's funeral establishment permit, preneed establishment permit, and respondent individual's funeral service license and ancillary preneed sales license on probation for one (1) year provided that respondents comply with the following conditions:

- *Respondent funeral home shall submit and pass without substantial deficiency an at need inspection and preneed examination conducted by a Board Staff Inspector with ninety (90) days following the effective date of this decision;*
- *Respondent individual shall take a Board-sponsored continuing education course on the FTC Rule on or before December 31, 2022; and*
- *Respondents shall submit to Board staff price lists that are compliant with the FTC Rule within fifteen (15) days following the effective date of this decision.*

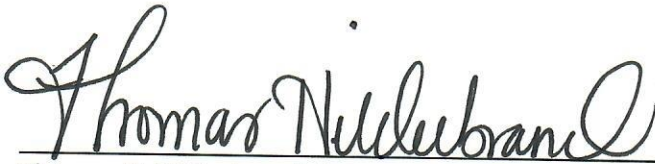
Mr. Watson announced that there was no further business before the Board and invited a motion to adjourn.

Upon a motion by Mr. McCormick and a second by Mr. Hilderbrand, the Board voted to adjourn the meeting.

Affirmation:



Christian E. Watson, President



Thomas T. Hilderbrand, Secretary

October 12, 2022

Date