

NORTH CAROLINA  
BOARD OF FUNERAL SERVICE



Minutes  
December 14, 2022, Board Meeting

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting on December 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; Darrell McCormick; LeShekia Coleman; and Robert Jansen.

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

Guests and Visitors: Chase Noble, Executive Director, NCFDA; William "Billy" Babb, licensee.

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Mr. Watson called the meeting to order at 9:07 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. Noble introduced himself. Mr. Davis and Mr. Lisenbee introduced Mr. Babb as the newly appointed Compliance Inspector for the Board who will begin work January 1, 2023.

Mr. Watson continued and asked Mr. Hilderbrand to present the minutes from the November 9, 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 Dr. Lyons, the Board voted to adopt the November 9, 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 December 8, 2022 with Mr. Davis and Ms. Acord to review the following agenda items:

- Financial Reports for the period ending October 2022
- Budget Proposal for FY2023
- Employee Salary Adjustments
- Proposal for Development and Testing of a Preneed Portal



Mr. Blake introduced the first agenda item and asked Mr. Davis for his presentation on the financial reports. Mr. Davis reported that the Board's Total Assets were greater than for the same reporting period in 2021 with Total Current Assets at \$1,962,137 compared to \$1,706,184 for 2021. He noted that Total Current Liabilities were lower than for the same period in 2021 at \$194,795 compared to \$214,000 for the same period in 2021. He then reported that the Preneed Recovery Trust Fund balance was \$509,721.51 compared to \$518,608.29 for the prior reporting period. Mr. Davis asked for any questions or comments. None were offered.

Mr. Davis continued his report and said that the License Fee Revenue for the period ending October 2022 was 84.3% compared to 85.1% for the same period in 2021. He noted that Total Revenue which includes Other Revenue was at 96.8% compared to 97.8% for the same period in 2021. He said that while revenue collections were slightly less than that collected in 2021, he reported that there will be two additional financial reports for FY2022 and there were no indications that the Total Revenue would be significantly less than that reported in 2021. He said that Cremation Fees collections continue to track ahead of those for 2021 while Preneed Contract registration fees are slightly less. He reported that the Year-To-Date revenue collections are \$1,464,632.65 compared to \$1,479,457 which shows \$14,000 less when comparing 2022 to 2021. He concluded his report and said that the percent of Budget Used through October 2022 was 82.3% which is less than the benchmark for the first month of the 4th Quarter which was 83%. He said that the Board's operating expenses for the same period in 2021 were at 88.4% of budget used which indicates that expenses are "under budget" for the reporting period. He then asked if there were questions or comments. Brief discussion ensued. Mr. Blake then said he was offering a motion for approval of the October financial reports.

*Upon a motion by Mr. Blake and a second by Mr. Brown, the Board voted unanimously to approve the Financial Reports for the period ending October 2022.*

Mr. Blake then stated that Mr. Davis would present recommendations to the Committee for a FY2023 Budget. Mr. Davis said that he had sent the proposed budget for Operating Expenses and Revenue along with several Excel spreadsheets with an analysis for the years 2016-2022 in both chart and graph form for the Board's review. He reminded the Committee that staff had not proposed an increase in the Board's budget for FY2021 and FY2022 but that revenue collections had increased at the end of FY2021 indicating the likelihood of a sustained trend based on collections for cremations and preneed contract registrations. He noted that staff was proposing a 2.2% increase in the Operating Expenses for FY2023 to reflect increased costs for mileage reimbursement for staff and Board members; rate increases for utilities and insurance; and gross wages. He explained increases or decreases for each line item with an explanation for each. He said that the proposed 2.2% increase in Operating Expenses would be \$1,536,630 compared to \$1,501,983 for FY2022. Discussion ensued.

Mr. Davis emphasized that one of the largest increases resulted from a 43% increase in the Board's Office Condominium Association assessment for FY2023 which represented a \$15,000 increase. He said that the Committee discussed and agreed that combining all legal-related expenses under a single line item would be a better way to report those costs as long as the total legal costs could break out specific expenses. Further discussion ensued.

Mr. Davis briefly summarized the proposed 3.1% increase in Total Revenue which included license fee revenue and other revenue which would increase the FY2021 budgeted revenue from \$1,513,038 to \$1,601,000. Mr. Davis said that this increase stemmed primarily from sustained increases in the collection of Cremation Fees and Preneed Contract registration fees. He noted that the primary increase staff proposed would come from cremation fees and that other proposed increases were more conservative. He said that staff's analysis of License and Permit Fees showed declines over the span of years from 2016-2022. He said that staff were proposing a decrease in these revenues rather than an increase. He said that staff were proposing an increase from \$859,413 in FY2021 for Other Revenue to \$976,000 in FY2023 to reflect the 2-year trend in higher Cremation Fees and Preneed Contract registration collections. Brief discussion



ensued. Mr. Blake asked members for any questions or comments pertaining to the presentation of the proposed budget for FY2023 from staff. Hearing none, he invited a motion on the proposed budget for FY2023.

*Upon a motion by Mr. Blake and a second by Mr. Brown, the Board voted unanimously to recommend approval of the proposed budget for FY2023 as presented.*

Mr. Blake continued the meeting and asked Mr. Davis to present recommendations for employee salary adjustments. Mr. Davis introduced this agenda item by summarizing compensation increases and one-time salary adjustments for the years 2018-2022. He then referred members to the handout he had provided earlier which outlined a proposed 3% cost-of-living (COLA) increase for Board staff. He noted that he was asking the Committee to approve the proposed 3% adjustment since budget concerns had limited COLA adjustments in prior years. He said that staff's recommendations included market-based adjustments for some employees to assure wage parity to the extent possible compared to prevailing labor market rates. Mr. Davis continued and said that staff also proposed a year-end retention adjustment for staff to diminish the risk of staff turnover in FY2023 which would elevate costs for recruitment and training. Discussion ensued. Board members discussed staff's recommendations and determined that the 3% COLA and the one-time salary adjustments were justified given the need to assure market-based compensation for staff to the extent possible and to address retention concerns. Mr. Blake then invited a motion.

*Upon a motion by Mr. Hilderbrand and a second by Mr. Herndon, the Board voted unanimously to award staff a 3% Cost-of-Living Adjustment with additional increases for four (4) positions exhibiting wage disparity and to award one-time salary adjustments of \$1000 for non-management staff, \$1500 for management staff, and \$100 for temporary staff.*

Mr. Blake continued and said that staff had recommended approval for funds to pay for a proposed Preneed Program Portal which would create an integrated online platform for the submission of preneed contracts, registration and associated preneed fees, Certificates of Performance and the Preneed Annual Report. Mr. Blake asked Mr. Davis to summarize staff's funding proposal. Mr. Davis noted that the Preneed Annual Report is currently submitted online but that it would be fully integrated with the proposed platform so that information from Certificates of Performance would be more efficiently transferred to Annual Reports. Mr. Davis noted that the Board's vendor for its licensing management system had quoted \$34,000 to develop, test, implement and maintain a preneed online platform, and he said that staff was recommending that the Board approve an expenditure up to \$50,000 from its Fund Balance—IT Enhancement which would transfer funds from the Unrestricted Fund Balance to pay these costs. He noted that the preneed platform would assure increased proficiency in the Board's intake and processing of these documents which range upward from 1200 preneed contracts per month. He said that the online submission would also benefit licensees in timeliness of their submissions and avoidance of fees for late submissions. Discussion ensued.

*Upon a motion by Mr. Blake and a second by Mr. Hilderbrand, the Board voted unanimously to recommend approval of a \$34,000 expenditure from the Fund Balance – IT Enhancement up to \$50,000.*

Mr. Watson thanked Mr. Blake for his report and recognized Mr. Hilderbrand for the Preneed Committee Report.

### **Preneed Committee Report**

Mr. Hilderbrand said that the Preneed Committee met on December 12, 2022, to consider a matter (P22-0007) presented by General Counsel Catherine Lee. Mr. Hilderbrand said that the Committee had reviewed a claim from a preneed recovery fund applicant on behalf of her deceased father who purchased a preneed contract



for himself in December 2008. He reported that on or about November 17, 2008, the father entered into a standard insurance-funded preneed contract on behalf of himself with a formerly licensed preneed establishment. The face of the contract did not indicate that the PN Establishment received preneed funds at the time the contract was made. The total amount of funeral goods and services selected on the contract equaled \$5,075.00 and indicated that the funding policy would be through Forethought Life Insurance Company. On December 9, 2008, the PN Establishment issued the Purchaser a preneed receipt in the amount of \$5,075.00, indicating that Purchaser paid the PN Establishment in full for “preneed insurance.”

In support of the application, the applicant submitted a group insurance enrollment form that the father had signed to apply for a \$5,075 policy insurance through Forethought. However, Forethought had no record of any policy ever being issued on behalf of the father as the Purchaser. The PN Establishment did not file the preneed contract with the Board. Both the Purchaser and the former licensee who wrote the Contract are deceased. According to the applicant, only the Purchaser and the former licensee participated in the sale of the Contract. Board staff issued a subpoena to obtain copies of the Purchaser’s negotiated check, but no records from 2008 were retained from the applicable financial institution. Mr. Hilderbrand said that Ms. Lee was available to provide further details or answer question regarding this preneed matter. After brief discussion, Mr. Hilderbrand offered a motion for approval of the applicant’s claim.

*Upon a motion by Mr. Hilderbrand and a second by Mr. Blake, the Board voted unanimously to approve the claim in Preneed Claim Number P22-0007 in the amount of \$5,075.*

Mr. Watson continued and called upon Mr. Herndon for the Disciplinary Committee report. Mr. Herndon said that the Disciplinary Committee met on December 9, 2022, to consider the following disciplinary cases along with recommendations and rationale for each case number:

**Dismissal**

C22-0078      C22-0082      C22-0086      C22-0087      C22-0089      C22-0090  
C22-0092C      C22-0094

**Letter of Caution**

C22-0077      C22-0084

Upon the conclusion of his report, Mr. Herndon invited questions or comments.

Mr. Blake said that he had noted numerous complaints regarding the timeliness associated with death certificates for decedents shipped out of state to other jurisdictions. Ms. Lee noted that she understood that this issue centered on delays through NCDAVE for amending death certificates and said that the issue would be appropriately addressed through the NC Vital Records Office in the Department of Health and Human Services. Mr. Blake suggested that the Board convey these concerns regarding timeliness to the Vital Records staff in the NC DHHS.

Mr. Herndon asked if there were other questions or comments. He then offered a motion for approval.

*Upon a motion by Mr. Herndon and a second by Mr. Brown, the Board voted unanimously to approve the recommendations from the Disciplinary Committee as presented.*

Mr. Watson then recognized Mr. Davis for the Executive Director's report.

### **Executive Director's Report**

Mr. Davis presented the following items for the Board's information and discussion:

- **Office Condominium Association**

Annual Meeting held on Monday, December 12. Site improvements will begin with roofing and then bathroom renovations. Have been elected to the Board as Treasurer for a one-year term.

- **Annual Audit of Financial Statements**

Set to begin on March 13, 2023 by Bernard Robinson & Company.

- **Letters of Understanding from The Conference**

Have received these from The Conference for Pathology and for the National Board Examinations. Will convene the Exam Committee prior to the January meeting to review and discuss.

Mr. Davis then presented a staff proposal for the Board's 2023 meeting schedule. He affirmed that he was proposing a continuation of the Board's usual meeting schedule for the second Wednesday in each month. He asked the Board to consider waiving the July Board meeting to accommodate travel for those planning time off during the summer. He said that former Boards had agreed to waive the July meeting for those reasons. Brief discussion ensued to enable Board members to consider the impact, if any, on the Board's operations and ability to conduct business.

*Upon a motion by Mr. Herndon and a second by Mr. Brown, the Board voted in the majority to approve the 2023 Meeting Schedule as presented including a waiver of the July 2023 meeting. Mr. Blake and Mr. Hilderbrand voted nay.*

Mr. Davis thanked the Board for its consideration and concluded his report by referring to the licensure and inspections reports. He invited any questions or comments concerning those reports.

Mr. Watson then asked Ms. Lee for the Legal Case Report.

### **Legal Case Report**

Ms. Lee reported the following information concerning legal cases to the Board:

#### **DISCIPLINARY MATTERS**

Current Active Cases: 38

Pending Investigation: 17  
Pending Review by Disciplinary Committee: 0  
Pending Dispositive Action: 10  
Pending Hearing: 8  
Post-Hearing: 0  
Other: 3



New files opened since last Board meeting: 12

Notices of Hearing sent since last Board meeting: 3

Consent Orders received since last Board meeting: 0

Cases reviewed by Disciplinary Committee since last Board meeting: 10

#### PRENEED RECOVERY FUND CLAIMS

Current Active Preneed Recovery Fund Claims: 1

Pending Investigation: 0

Pending Dispositive Action: 1

Preneed Recovery Fund Claims received since last Board meeting: 0

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

Preneed Recovery Fund Claims reviewed by Committee since last Board meeting: 1

Ms. Lee concluded her report and invited any questions or comments. Mr. Blake asked about the permitting for a new alkaline hydrolysis facility and questioned how the Board governs this licensure category. Mr. Lisenbee responded and reported that the statutory provisions regarding alkaline hydrolysis were initially placed under the provisions regulating Cremations. Brief discussion ensued. Mr. Blake noted that operators of alkaline hydrolysis facilities are not required to hold licensure in funeral directing or funeral service. Mr. Herndon questioned how operators of alkaline hydrolysis facilities prepare and complete a death certificate since the current format for certificates do not currently acknowledge alkaline hydrolysis. Mr. Lisenbee affirmed that there are continuing issues and concerns associated with this relatively new method of disposition and that research would be necessary to develop future recommendations from staff for the Board's consideration.

#### New Business

Mr. Watson announced that the Board would be conducting an election to identify three appointees to the NC Crematory Authority as a New Business item. He briefly explained the voting procedures, and Mr. Davis provided ballots to each Board member. Prior to voting, Mr. Watson recessed the meeting at 10:28 a.m. and reconvened the meeting at 10:40 a.m.

Mr. Davis said that he had provided each Board member prior to the meeting a package of information containing pertinent information for each candidate along with their Letters of Intent or any recommendations submitted on their behalf. Upon completion of the voting, Mr. Hilderbrand tallied the votes, and Mr. Watson announced that the following three (3) candidates had received a plurality of votes:

- Mr. David Miller, Coastal Cremations, Wilmington, NC
- Mr. Charlie Neal, The Pines Cremation Service, Southern Pines, NC
- Mr. Bobby Keller, Forest Lawn West Crematory, Charlotte, NC

Mr. Watson noted that Dr. Lyons as incoming Board President would appoint a Board Member to the Authority as a replacement for Mr. Blake whose term would be ending December 31, 2022.

**Old Business**

There were no items for Old Business.

Mr. Watson stated that the Business Session was closing and asked for a motion for the Board to convene in closed session to consider matters subject to attorney-client privilege pursuant to NCGS 143-318.11.

*Upon a motion by Mr. McCormick and a second by Mr. Brown, the Board voted to convene in closed session.*

Upon a motion by Mr. McCormick and a second by Dr. Lyons, 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. Blake and a second by Mr. Hilderbrand, the Board voted to accept a proposed Consent Order in settlement of Board Case Number C20-0021/M22-0057; M22-0047 in the matter of Edward Kirk Rivers.*

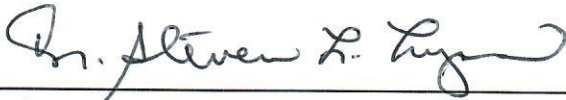
*Upon a motion by Mr. Blake and a second by Mr. McCormick, the Board voted to accept a proposed Consent Order in settlement of Board Case Number C22-0042 in the matter of Phillips Bros. and Anderson Memorial Mortuary, Inc. and Charles Lee Edwards. Mr. Brown was recused.*

Mr. Watson thanked members for their attendance and participation and conveyed best wishes for the holiday season. He then invited a motion for adjournment.

Upon proper motion and vote, the Board adjourned at 11:57 a.m.

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Affirmation:



Dr. Steven L. Lyons, President



Darrell McCormick, Secretary



Date