

Cemetery & Funeral Bureau Advisory Committee Meeting Minutes

Thursday, June 7, 2012

Department of Consumer Affairs
1625 North Market Boulevard, San Francisco Room
Sacramento, CA 95834

Advisory Committee Members:

Fredrick Belt
Merrill Mefford
Phyllis Montero
Robert Mull
John Resich

Guests:

Steve Schacht
Jerry Desmond, Jr.
Deborah Meckler
Marjorie Bridges

Cemetery & Funeral Bureau Staff: Lisa M. Moore, Bureau Chief; Joy Korstjens, Legislative Analyst; Richard Hernandez, Administrative Assistant

DCA Staff: Gary Duke, Legal Counsel; Reichel Everhart, DCA Deputy Director of Board and Bureau Relations; Awet Kidane, DCA Chief Deputy Director; Greg Pruden, Legislative and Policy Review

1. Introduction and Opening Remarks

Bureau Chief Lisa M. Moore called the meeting to order at approximately 10:05 a.m. and welcomed those in attendance. Advisory Committee Members in attendance consisted of: Merrill Mefford, Fredrick Belt, Phyllis Montero, Robert Mull, and John Resich. (Advisory Committee Members Cheryll Moore and Caroline Flanders were regretfully unable to attend the meeting). Ms. Moore thanked the Committee Members for agreeing to serve a second term on the Advisory Committee and informed them that she expected this committee to be a less formal, more interactive one that participated even between meetings, as the Bureau needs their expertise as demonstrated by Phyllis Montero and Cheryll Moore assisting in the development of the Bureau's new brochure, Peace of Mind. Ms. Moore then discussed various staffing vacancies within the Bureau, including the Deputy Chief position that she vacated when appointed Bureau Chief, and the recent retirement of Mary Hintemeyer in the Licensing Unit.

2. Status of Cemetery Maintenance Standards (proposed Section 2333 of Division 23, Title 16 of the California Code of Regulations)

Joy Korstjens explained the "informal" process that led to the current proposed regulatory language for cemetery maintenance standards, i.e. the meetings beginning with the previous Advisory Committee, the March 2011 workshop, the May 2011 focus group, followed by the presentation of that redrafted language to the current Advisory Committee in June 2011, all of which led up to the publication of the final language in the Office of Administrative Law (OAL) California Regulatory Notice Register on April 13, 2012. She thanked everyone for participating in the "informal" process that led to

the final language filed with OAL. Ms. Korstjens deferred to Gary Duke, who took over the discussion and referred to the OAL Rulemaking Process Flow Chart [available on the Bureau's Web site www.cfb.ca.gov under "Proposed Regulations"] for information on how the regulatory process works now that formal rulemaking has begun, and emphasized that the language stands as-is once the formal rulemaking process starts. Mr. Duke stated the regulatory hearing on July 12, 2012 was the time for stakeholders to provide verbal comments on the proposed language, or they could submit written comments up until that date; after that, the Bureau Chief and Director would consider all comments prior to filing with OAL, after which OAL has 6 weeks to approve or reject, although usually OAL will notify the Bureau if there is a problem and then the Bureau can issue a 15-day Notice and fix it. After gaining OAL approval on the regulation, it would be filed with the Secretary of State and then become regulation 30 days after that. Ms. Moore commented that the process has been somewhat lengthy and challenging, but that the Bureau plans to go forward with any future regulation package(s) in the same manner.

3. Bureau Web Site Revision and Newsletter

Ms. Moore stated that the issue of the Web site revision was placed before the Advisory Committee Members last year, but that the Bureau only received one suggestion and it wasn't something we could implement with the current legacy computer system used by DCA. When the Bureau converts to the new BreZE computer system in 2013, functionality will be improved. However, the Bureau is aware that the Web site could be more user-friendly in the meantime, and it is something that Ms. Korstjens and Richard Hernandez are working on; the new Web site is slated to be finished in August. As far as the newsletter, the CFB Advocate, formerly titled The Tolling Bell, Ms. Moore reminded those in attendance that the publication can be found on the Web site and was the first of the Bureau's publications to get a new look. Due to staffing cutbacks, the newsletter is now only published twice a year, but that also keeps the content meaningful; Ms. Moore asked that attendees give feedback on the articles and let the Bureau know what they would like to read in future editions. Although the Bureau cannot afford to print and mail the newsletter to interested parties, alerts regarding its publication are sent via email to subscribers of the Bureau's ListServe, which anyone can sign up for on the Bureau's Web site. Ms. Korstjens asked attendees to email her directly with any article ideas and feedback as she is the primary editor/author of the CFB Advocate. Mr. Duke added at this point that he forgot to bring the Advisory Committee Members attention to the letter addressed to them from Christine Williams regarding the proposed cemetery maintenance standards, which would be addressed in the formal rulemaking process.

4. Discussion of Proposed Changes to Funeral Regulations in accordance with Strategic Plan

Ms. Moore reviewed the history of the Bureau's interest in revising the regulations. She revealed that the concept began three Bureau Chief's before her, followed by another working group, and that the recommendations that came out of those meetings were broken into separate packages for ease of processing, beginning with the Section 100 changes (changes that are without regulatory effect, meaning they are non-substantive and technical in nature) that were completed in Fall 2011. The Bureau is now moving onto the regulatory packages we are referring to as "General" and "Enforcement". In

addition to the amendment and/or repeal of those existing funeral regulations, the Bureau is drafting the regulations for Limited Liability Companies (LLC) on the cemetery side. The Bureau is planning to hold an all-day workshop on August 16th to discuss all three proposed regulation packages with stakeholders. Ms. Korstjens stated that the "General" package included such diverse regulations topics as sanitation, removal vehicles, the Authorization for Disposition With or Without Embalming form, etc., and that the "Enforcement" packaged included the cite and fine sections and the continuing education regulations, which were originally included in the Section 100 changes but which OAL rejected, stating they needed to go through the formal rulemaking process instead. Mr. Duke mentioned that the Department of Finance and the State and Consumer Services Agency also must review the Bureau's proposed regulations before they can be submitted to OAL, which adds to the amount of time it takes to complete any regulatory package.

5. Discussion of Revisions to the Consumer Guide to Funeral and Cemetery Purchases

Ms. Moore began the discussion by stating that statutes on both the funeral and cemetery side state that the Bureau needs to work with industry to develop and/or revise the Consumer Guide to Funeral and Cemetery Purchases, and that the changes made in 2010 were non-substantive and related to contact information only. Advisory Committee Member John Resich agreed to take the lead in working with the other Advisory Committee Members on this project, as well as making sure that the information gets out to industry and other stakeholders and report back at the next meeting. It was suggested that industry not only be notified when a new revision was published, but also informed on how to handle old stock, and that perhaps it would be best to have new editions of the Consumer Guide published in January to coincide with new laws becoming effective.

6. Discussion of Non-Compliance in Industry Practices

Ms. Moore briefly explained that this issue was placed on the Bureau's Strategic Plan 2011-2014 by her predecessor [Bev Augustine] and that the topic was intended to solicit comments on areas of non-compliance the Bureau needs to look at. The only issue raised by an audience member was related to standardization of the General Price List, so that it was easier to tell if it was in compliance with the FTC – Funeral Rule; essentially proposed that a template be created, especially in the delineation of services.

7. Public Comment on Items Not on Agenda

Marjorie Bridges of the Funeral Consumers Alliance made several comments based upon telephone calls she had received, including the general lack of knowledge on the part of many attorneys on funeral and cemetery law, to which Mr. Duke responded that, yes, it is a specialty field. Ms. Bridges also felt that the process for home/farm burial needed to be easier, which Mr. Duke advised would need a statutory change, and various attendees related their experiences with the issue. Ms. Bridges continued by stating the majority of her calls are from people who cannot afford a funeral, and she was contemplating the necessary steps to starting a non-profit organization to help people with funding. Advisory Committee Member Robert Mull related how Orange County, where he is employed with the Public Administrator's office, is inundated with

indigent cases. He emphasized that the term “indigent” was not limited to the homeless, but included many seniors and others with limited incomes. Several audience members related their experiences with similar cases, as well as custody and duty of interment issues. Mr. Mull also recommended Ms. Bridges and others familiarize themselves with the Unforgettables Foundation, a non-profit organization that helps low-income families pay for final arrangements for children, as well as the repatriation services offered by the Mexican Consulate for deceased citizens. Mention was also made of a new Funeral Consumers Alliance group, the FCA of Southern California, consisting of Orange, Los Angeles, Ventura, and Santa Barbara counties.

8. Future Meetings (Tentative: November 15, 2012)

Ms. Moore asked members if they were agreeable to meet again on November 15, 2012. It was agreed that was acceptable, and that the exact time and location would be announced later.

9. Adjournment

On behalf of the Advisory Committee, Mr. Mull congratulated Ms. Moore on her appointment as Bureau Chief. As there were no other comments, the meeting was adjourned at approximately noon.