

# Cemetery & Funeral Bureau Advisory Committee Meeting Minutes

Wednesday, September 14, 2011

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

## **Advisory Committee Members:**

Fredrick Belt  
Merrill Mefford  
Phyllis Montero  
Cheryll Moore  
Robert Mull  
John Resich

## **Guests:**

Gerard Reinert  
Jerry Desmond, Jr.  
Bob Fossgreen  
Bob Ackermann

**Cemetery & Funeral Bureau Staff:** Bev Augustine, Bureau Chief; Lisa Moore, Deputy Bureau Chief; Joy Korstjens, Analyst; Sandra Patterson, Analyst

**DCA Staff:** Kurt Heppler, DCA Legal Counsel

## **1. Introduction and Opening Remarks**

Bureau Chief Augustine called the meeting to order at approximately 10:30 a.m. and welcomed those in attendance. Advisory Committee Members in attendance consisted of: Cheryll Moore, Merrill Mefford, Fredrick Belt, Phyllis Montero, Robert Mull, and John Resich. (Advisory Committee Member Caroline Flanders was regrettably unable to attend the meeting.)

## **2. Strategic Plan 2011-2014**

Ms. Augustine began by discussing the Strategic Plan 2011-2014, and she noted it is posted on the Bureau's Web site. She stated that the Bureau was very pleased with the Strategic Plan, and that although the goals may seem basic and not far reaching, they were all items that need addressing, and have for quite some time. Ms. Augustine then reviewed the mission, vision, and values on the second page of the document and suggested that those in attendance review the rest of the document (printed copies of which were provided at the meeting). Mr. Mefford, Committee Member, commented on Goal 2.1 that his past experience with Consumer Guide revisions by the Bureau involved the Bureau updating the Consumer Guide and posting it to the Web site without adequate notice to industry. He requested to be notified prior to a new Consumer Guide being issued. Ms. Augustine and Deputy Chief Moore both agreed to let industry know before a new one is printed, and pledged to work with industry and interested parties on those revisions in accordance with the law. Mr. Resich, Committee Member, asked what type(s) of funds would be included under Goal 4.4, and whether that would include unused interment rights. Ms. L Moore stated that she believed the Audit Unit was referencing money in a preneed trust account. Mr. Resich stated that it's a difficult process (determining if money should be escheated to the

State), and that a cemetery often doesn't know if a decedent is buried in another location instead of the plot they prepurchased. Ms. L. Moore responded that the issue is on the Strategic Plan precisely because it does need to be looked at to see how such issues can be addressed, and Ms. Augustine added that the Bureau will work with interested parties on refining such a broad process.

### **3. Status of Draft Language for Cemetery Maintenance Standards for Proposed Rulemaking**

Ms. Augustine deferred to Ms. Korstjens for the discussion of the cemetery maintenance standards. Ms. Korstjens informed those in attendance that the Bureau took the comments made at the last meeting into account prior to submitting the cemetery maintenance standards package to the applicable parties within the Department of Consumer Affairs and the State and Consumer Services Agency for review. She stated that the next time for public comment on the cemetery maintenance standards regulation will be after filing with the Office of Administrative Law, during the 45-day comment period. Attendee Jerry Desmond, Jr. stated that he appreciates the process the Bureau took in developing and refining the cemetery maintenance standards, particularly the effort the Bureau made in keeping the process open and transparent, while attempting to engage everyone involved in the topic.

### **4. Status of Proposed Section 100 Changes to Funeral and Cemetery Rules and Regulations**

Ms. Korstjens informed the Advisory Committee Members and the audience that the Section 100 changes for both Cemetery and Funeral regulations had been filed with the Office of Administrative Law last week. She referred them to the handout that listed all sections of the regulations and noted next to the section number what changes, if any, were being made. DCA Legal Counsel Kurt Heppler reminded those in attendance that Section 100 changes are changes that are without regulatory effect, meaning they are non-substantive and technical in nature. Mr. Mefford, Committee Member, asked Ms. L. Moore what happened to the other changes suggested by a previous committee, and Ms. L. Moore assured Mr. Mefford that the suggested changes to the funeral regulations hadn't been forgotten just separated into different subject matters for ease of processing. Ms. Korstjens directed Mr. Mefford to Strategic Plan Goal 6.6, which outlines the Bureau's plan to complete the rulemaking process for the revised funeral regulations of which he was speaking.

### **5. Bureau Web site revision suggestions**

Ms. Korstjens began the discussion by stating that the Bureau asked the Advisory Committee Members after the last Advisory Committee Meeting in June to research the Bureau's Web site and suggest changes that would make it more responsive to consumer and licensee needs. Ms. Korstjens commented that the only suggestions she received came from Mr. Mefford, Committee Member, and she then turned the discussion of those suggestions over to Ms. L. Moore. Ms. L. Moore informed Mr. Mefford that the Bureau understands the way he wants the License Lookup feature on the Web site to work, but that the current CAS computer technology utilized by the Bureau does not allow for the necessary modifications. However, the BreEZe computer system is going to be implemented by DCA soon, and the Bureau is slated to convert to BreEZe in December 2013. BreEZe will allow the Bureau's Web site to include the

requested changes to the License Lookup feature. In the meantime, the Bureau is looking to update the Web site in other ways, such as where information can be found, correcting spelling errors, etc. Ms. Augustine asked attendees to submit comments and input on Web site revisions because the Bureau wants it to be more user friendly and more intuitive, but she asked that everyone remember the limitations currently imposed by CAS versus what BreEZe will allow.

#### **6. Preliminary discussion of Cemetery Act and Funeral Directors and Embalmers Law merger in statute**

Ms. Augustine briefly explained that the two sets of laws governing the Bureau makes for cumbersome and confusing administration, and the Bureau is exploring the possibility of merging the two, though it is just a proposal at this point. Ms. L. Moore stated that this type of action is long overdue, because there is a lot of unnecessary duplication in budgets, databases, etc. Ms. Augustine commented that a merger should have happened when the former Boards were combined, but since it did not, we are addressing it now.

#### **7. Public Comment on Items Not on Agenda**

Mr. Belt, Committee Member, stated that the term "endowment care" needs to be more accessibly defined for consumers because many are confused as to the difference between an endowment care cemetery and a non-endowment care cemetery. Ms. Augustine responded that this a problem that the Bureau is aware of, and that she and Ms. L. Moore have begun discussing ideas to address the topic. Ms. L. Moore commented that this topic was going to need a lot of participation from stakeholders, and that the process may resemble that undertaken with the development of the cemetery maintenance standards. Mr. Resich, Committee Member, replied that he felt the bigger issue was regulated versus unregulated cemeteries, because most unregulated cemeteries don't have endowment care. He felt that DCA should look at whether all cemeteries should be on a level playing field. Ms. Augustine stated that the Bureau was certainly open to discussion on the issue.

Ms. L. Moore commented on Agenda item 6, reiterating that the merger proposal wouldn't include new language, or amend anything other than repealing one act and putting all of those statutes into the other act so all of the Business and Professions Code Sections applicable to the Bureau would be in one area. Ms. Augustine stated that the initial goal was simply to combine the statutes, and that substantive changes could be looked at after that was completed. Ms. Korstjens added that this would merely be a technical cleanup of the laws, similar to the concept of the Section 100 changes that the Bureau just completed for the regulations.

Bob Fossgreen of the Funeral Consumers Alliance of Northern California asked if there wasn't a map or other recording of the 125 cemeteries in Shasta and Tehama counties, many of them Native American. He wanted to know what the regulations were and what sort of process they should be going through. Mr. Fossgreen stated that many people would be interested in learning about pioneer cemeteries as well, and that he would like to see that information made available. Ms. Augustine thanked him for his comments, reminding him that the Bureau doesn't maintain information on cemeteries it doesn't regulate, and that local government and historical societies were the proper

resources in this situation. Mr. Belt, Committee Member, commented that in El Dorado County, parties interested in these types of unregulated cemeteries work with the county and local historical societies.

Ms. C. Moore, Committee Member, raised a point of clarification on Committee Member Mr. Belt's comments, asking if there was a universal definition of "endowment". Mr. Mefford, Committee Member, replied that the term is used in multiple sections of law, but there is not one simple definition. Ms. C. Moore responded that perhaps the Advisory Committee could work on the issue. Ms. Augustine agreed it sounded like a good consumer protection issue, and Ms. L. Moore felt it could be a good topic for the future revision of the Bureau's Consumer Guide.

Mr. Mull, Committee Member, asked Mr. Heppler for an update on the lawsuit with regard to preneed trusts. Mr. Heppler deferred to the Bureau Chief, and Ms. Augustine replied that the Bureau couldn't comment on pending litigation, and that if any information was able to be made public the Bureau would do so.

#### **8. Future Meeting(s)**

Ms. Augustine asked members when they would like to meet again. It was agreed that the meeting would take place during the first week of December, starting at 10:00 a.m., and that the exact date and location would be announced later.

#### **7. Adjournment**

As there were no other comments, the meeting was adjourned at approximately 11:15 a.m.