

**OFFICE OF CEMETERY OVERSIGHT
ADVISORY COUNCIL ON CEMETERY OPERATIONS
MINUTES**

DATE: July 22, 2010

TIME: 10:00 a.m. – 1:00 p.m.

PLACE: Department of Labor, Licensing and Regulation, 500 N.
Calvert Street, 2nd Floor Conference Room, Baltimore,
Maryland 21202

CALL TO ORDER

Chairman Goodman called the meeting to order at 10:10 a.m.

MEMBERS PRESENT

David Goodman, Chair
Jay Cherry
F. Thomas Claxton
Richard Cody
Frank Porter
Sarah Rex
Harriet Suskin
Walter Tegeler
David Zinner

MEMBERS ABSENT

Susan Cohen
Erich March

STAFF PRESENT

Benjamin Foster, Director
Patricia Tress, Investigator
Leila Whitley, Administrative Aide
Paulette Wirsching, Assistant Attorney General

GUEST SPEAKERS

Viola L. Lee, Maryland State Archives
Harry Loleas, Deputy Commissioner, Department of Labor, Licensing and Regulation, Occupational and Professional Licensing

GUESTS

David Mason, Mason Government Relations Service
Brenda McNeal
Jesse B. Harris, Jewish Cemetery Association of Greater Baltimore
Irvin Suskin
Lotte Zinner

MINUTES

The April 22, 2010 minutes were accepted with corrections.

The May 27, 2010 minutes were accepted with corrections.

The June 24, 2010 minutes were accepted with corrections.

ANNOUNCEMENTS

Chair Goodman informed the Advisory Council members that a citizen's group is in the process of trying to restore St. Vincent's Cemetery, in Baltimore.

Chair Goodman offered an update on a bill currently before the 111th Congress, H.R. 3655 sponsored by Representative Bobby Rush from Illinois (Bereaved Consumer's Bill of Rights Act of 2009) which is making its way through Congress and was approved in Committee with amendments. Chair Goodman advised that he is still hoping to establish communication with Counsel from Congressman Rush's Office at a future Advisory Council Meeting and mentioned the possibility of holding September's meeting in Silver Spring in order to accommodate a teleconference with Congressman Rush's Office.

In addition, Chair Goodman is hoping that Dr. Edward C. Papenfuse Director of Maryland Archives will be able to attend the September 16, 2010 meeting depending on his schedule.

GUEST MR. HARRY LOLEAS

Chair Goodman introduced Mr. Harry Loleas, Deputy Commissioner of Occupational and Professional Licensing at the Department of Labor, Licensing, and Regulation who agreed to attend today's meeting to brief

Advisory Council members and the Director and his staff on the Office's current fiscal condition and future budget needs.

Mr. Loleas handed out a fiscal summary for the Office entitled "Status of the Cemetery Oversight Special Fund As of 6/30/10 (Preliminary)" to those in attendance as a guide for his discussion. He reported that for FY09 money was captured and the books were clean. For FY10, the closing balance as of 6/30/10 was \$254,156. He noted that income is on a two year cycle with FY10 a high year. FY11 income was estimated to be 1/3 of FY10. He spoke about the need to calculate both direct and indirect costs in order to be able to arrive at a decent estimate of what it costs to run the office. He then spoke about the need to make sure that adequate funds are collected to cover FY11 costs. He is anticipating a small cushion at the end of FY11 with a small positive balance if nothing changes.

Mr. Loleas reported that the last fee adjustment for the office took place in 2006 and was related to the Sunset Review process and a promise made not to allow a deficit to happen again which was the case at that time.

Mr. Loleas spoke about the longer term picture and the long standing desire to move towards implementation of electronic licensing using the internet which would eliminate the current and very time consuming / inefficient manual process. An electronic approach would allow computer generated licenses to be mailed within three days. This idea was explored years ago during the terms of former Director's Steve Sklar and George Piendak. At that time the cost for such a system was estimated to be around \$55,000. While DLLR currently issues thousands of licenses to people electronically, the Office of Cemetery Oversight presents special challenges in terms of the IT logic involved making the project very challenging and expensive.

Mr. Loleas stated that he would like the Office to move ahead with the electronic licensing initiative and place it on the top of the list of projects to pursue and then related effort to the discussion about the budget process. This would require resources above and beyond existing revenues. He is hoping to spend the next couple of weeks analyzing the revenue stream for 2011. He mentioned that as recently as April a clear trend began to emerge of a drop in the number of contracts reported during the current cycle. Work is underway to finalize the accounting for FY10 and to simultaneously look at FY2011 projections. The goal would be to obtain a revised estimate for the cost of the electronic license initiative and then determine what kind of fee adjustment would be necessary in order to make this a reality. Mr. Loleas reviewed the fee history. When the Office was first established the fee was set at \$3.00 per contract. This was adjusted to \$5.00 and then again in 2006 to the current contract level of \$10.00. He spoke about the challenge of having adequate revenues to cover the cost of the Office operation while maintaining a slight positive balance that keeps the Office running in the black. In order to accomplish this and have adequate resources to cover the

cost of implementing electronic licensing, he is anticipating the possibility of a slight fee increase in the neighborhood of an additional \$2.00 per contract.

Mr. Loleas spoke about the Legislature returning next year to start the Sunset Review process and the goal of the Office being in a strong position as regards its budget and fiscal health which was an area cited as needing attention in the previous review process. He is hoping to return to meet with the Advisory Council again in September with a more complete FY11 analysis along with estimates for the cost implementing electronic licensing. Mr. Loleas spoke about the larger economic climate. There are no significant increases in anyone's budget at the present time. State employees are being furloughed and there are no cost of living raises. Funds are being tightly controlled and even special funds are vulnerable.

Mr. Cody asked if anyone had information on how many cemeteries were actually paying for the cost of the Office. Mr. Loleas said he would try to bring that information to the September meeting. Mr. Foster suggested that the total number of cemeteries contributing was in the high sixties. Mr. Cody asked what on average each Cemetery was contributing. Mr. Foster responded that it was difficult to provide an average given the variability of cemetery size, geography and total number of contracts per year.

Mr. Zinner asked about the obtaining a breakdown of the Office's income. Mr. Loleas offered to provide information on ranges. The total budget for the Office is around \$631,130. One half million comes from the per contract fee. The per contract fee is what the Legislature came up with as the primary funding source for the Office. Mr. Zinner asked if anyone had done an analysis of trends over the past ten years. Mr. Loleas replied that analysis had been completed on the past two years, but he was unsure if the preceding cycles were archived in any way. For the most recent cycle a decline was seen involving every cemetery with the exception of one organization involving a total of \$38,000 in declining contract fees. Chair Goodman cited a trend referred to by Mr. Fishman, Director of New York State Cemetery Board in a previous Advisory Council meeting in which he observed the negative impact of cremation on cemetery sales and revenue as a growing trend in the industry. Mr. Zinner asked if the same decline was anticipated to continue into next year. Mr. Loleas spoke about the importance of having a prudent balance, so that the funds on hand do not grow too large. He commented that in these difficult economic times, large and excessive balances can be targeted.

Mr. Loleas spoke about the importance of the Advisory Council in understanding and communicating actual industry trends to the Office in addition to relying on information and observations from other states. If sources of funding become unstable, the Office will need to come up with a plan.

Chair Goodman asked Mr. Loleas if he would go over what was involved in changing the per contract fee. Mr. Loleas responded that Director Foster would have to propose a new fee which would then be published in the Maryland Register. A period of public comment would follow. A financial impact statement would be developed. The AERL Committee would then have a primary role in moving the proposed regulation forward, slowing it down or stopping it altogether if there were concerns. A series of questions would have to be answered. If approved the regulation would take effect approximately ninety days later.

Mr. Porter asked Mr. Loleas if he could have the projected budget along with the proposed fee change ready when he returns to meet with the Council in September. Mr. Cherry questioned the General Assembly's intention to expand the number of cemeteries that contribute to the funding of the Office. Mr. Loleas pointed out that for many of the non religious non profit cemeteries operating there is no contract fee involved, only a \$50 registration fee and that this represents only a tiny fraction of potential revenue. He spoke about the importance of exploring other options of revenue gathering.

VICKI LEE HEAD OF CONSERVATION - MARYLAND STATE ARCHIVES

Chair Goodman introduced Ms. Vicki Lee, Head of Conservation with the Maryland State Archives who agreed to speak to the Council about record keeping standards and also share her experience and knowledge of resources for disaster planning.

Ms. Lee gave an over view of options for record keeping and storage beginning with the care and storage of paper records. She reported that since 1850 paper has been made from trees and that new paper available today used for long term record keeping is ideally acid free, lignin free and buffered. Effective storage includes an environment that is cool, dry and dark. Ink fades over time and light aides in the breakdown of both paper and ink. She spoke about water proof black ink being the standard for record keeping purposes. Colors do not scan well or microfilm well. Red ink always runs while black ink is the most stable. Non acidic ink should be used at all times.

Ms. Lee showed examples via a power point slide of the negative effects of acidic ink, rust, mold on the breakdown of paper records. She spoke of the limitations of paper records in terms of illegible handwriting. She addressed problems involving insect damage to paper records including damage caused by roaches, book lice and silver fish. She talked about looking for signs of insect damage such as little piles of saw dust and frass.

Ms. Lee than offered guidelines such as not using any kind of tape with paper records and advised that paper records should not be stored in wooden

cabinets. She recommended instead that archival boxes or baked enamel metal cabinets were the preferred storage method. She recommended that paper records should be packed tightly and gave as an example records recovered after Katrina in which records in metal file cabinets that were packed tightly sustained less water damage and were recoverable. Ms Lee emphasized the importance of redundancy. There should always be a duplicate set of records kept off site in a safe environment. Records should always be kept somewhere in view where someone would notice if any kind of damage was occurring.

Ms. Lee then explored options for electronic storage of records. She began by pointing out the limitations of some electronic media. There are electronic myths, such as, computers are indestructible and will last forever, computers are compatible with one another, having records on computers is cheaper, electronic records are always available, etc. Contrary to popular belief, many electronic media have a limited shelf life including CD's and DVD's which may be good for use up until ten years or so. Repeated copying of media can involve loss of some data and on the fifth round of copying you can begin to see deterioration in the record being copied. USB storage options may offer a longer period of safe storage up to around twenty years. Electronic records are always available and easily retrieved, however when there is a loss of electricity such as occurred in Haiti, then problems ensue. Therefore, if electronic media is the primary method of record storage, you must have back up sources of electricity such as generators or back up battery banks.

Ms. Lee spoke about taking pictures / video of the cemetery before there is a disaster. Use of landscaping was suggested to mitigate the effects of weather and flooding and have up-to-date details kept in a safe location off-site.

A volcanic eruption is the only potential disaster Maryland does not face. Ms. Lee spoke about the disasters in Cedar Falls, Iowa in June 2008; Cologne State Archive in March 2009; and Port Au Prince, Haiti earlier this year. A few things that can be done for disaster planning for records are: prepare in advance; inform others; and know the cemetery's history.

Ms. Lee asked who would a cemetery call if a disaster occurred? She recommended the Online Disaster-Planning Tool for Cultural and Civic Institutions a web site sponsored by the Northeast Document Conservation Center (NEDCC) as offering an invaluable resource worth exploring. The website can be accessed at the following link: <http://www.dplan.org/default.asp> She spoke about dPlan and advised that one could enter a Zip Code to find out about local disaster relief resources. She indicated that a Beta version was scheduled for release sometime in September and that Maryland cemeteries could sign up as Beta Testers.

DIRECTOR'S REPORT

Director Foster spoke about plans to put out another newsletter this summer while Shannon was still available to the Office. He invited members of the Advisory Council to contribute content. Director Foster also spoke about needing to get back to the application paper work review process. Director Foster then referred to a remark made earlier by Mr. Porter about the agenda and talked about needing to look at the purpose of the Advisory Council meetings. Mr. Porter asked about the status of ongoing meetings with the Board of Morticians. Director Foster then commented on regulation development which is underway. Ms. Wirsching advised that it was the responsibility of the respective agencies (Office of Cemetery Oversight and Board of Morticians) to submit proposed regulations to the AERL Committee and that the regulation development process allowed for appropriate opportunities for input by the Industry. Ms. Wirsching advised that she was engaged in drafting a structural framework that would address two different oversight structures. The goal is to achieve identical regulations.

INVESTIGATOR'S REPORT

Ms. Tress stated there are twenty-three more complaints this year compared to this time last year. She has never been busier. The complaints do not seem to be following any particular pattern and are not originating from any specific cemetery. There does seem to be an increase in complaints originating from elderly individuals. Ms. Tress believes the reason it has become busier is in part due to people using the internet more than before and as a result the Office has become more visible to the public. Director Foster would like to see Ms. Tress out in the field more than two days a week.

Chair Goodman stated maybe the Advisory Council could make a 'Wish List' on tools and equipment that would be needed for the Office to run better. Ms. Tress stated that if a laptop computer was purchased it would have to be state issued with all of the accessible state applications on it.

NEW BUSINESS

Chair Goodman announced that the next Advisory Council meeting scheduled for September 16, 2010 might take place in Silver Spring.

Chair Goodman is hoping Dr. Papenfuse from the Maryland Archives will be able to attend the September meeting and that Mr. John Yateman, President of the Maryland Cemetery, Funeral & Cremation Association might attend the October Advisory Council meeting.

Mr. Claxton advised there is a brand new facility for the office of the Chief Medical Examiner opening in Baltimore where the Advisory Council might be able to hold meetings in the future.

Mr. Mason announced that the Board of Mortician's would not be meeting in August.

ADJOURNMENT

A motion to adjourn the meeting made by Mr. Porter and seconded by Mr. Cherry. The meeting adjourned at 1:10 p.m.