

*Arkansas State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services
Rules Sub-Committee Meeting Minutes*

Monday, April 19, 2021

1 Commerce Way
Diamond Mine Room– 2nd Floor
Little Rock, AR
1:00 – 3:00 PM

Chairman Billy Curl, Professional Member called the meeting to order. Member(s) present: Steve Whitwell, Professional Member, and Bill Booker, Professional Member.

Staff present: Robert Akers, Director, Funeral Services Division, Darriel Ezell, Inspector/Investigator, Amy Goode, Executive Secretary, Amelia Vestal, Senior Securities Examiner, and Amanda Gibson, Arkansas Insurance Department, Associate Counsel.

1. **Call to Order** – Introduction of Board members and staff.
2. **Perpetual Care Cemeteries Proposed Rule Changes**

Act 343 of 2021, allows perpetual care cemeteries, to once every ten (10) years make a request to withdraw funds from their permanent maintenance fund for the purpose of making infrastructure repairs and capital improvements to the cemetery. This does require prior approval by the Board.

The application will be the form and process to withdraw funds. The Board needs to decide the percentage allowed or the max percentage to withdraw.

The committee discussed, staff of the cemetery submitting bids for the work, if the staff of the cemetery can do the work themselves. Add to the application in-house bid check box. Cemetery should submit at least 3 bids.

We need to create a rule that is vague as possible to give the board more room for requests.

The committee had also discussed the bank directly making payment to the vendor from the trust after the work is completed.

We need to define Infrastructure Repair and Capital Improvement.

Staff shall inspect cemetery before and after a request. The requests should be reviewed and approved on a case by case basis. Sometimes going with the lowest bidder is not always the appropriate route to take.

The law states one (1) time every ten (10) years, when does the time start over? The cemeteries will want the maximum funds available. The committee discussed the time would start over,

with once the work is done. The clock would start over after the completion of the last project. We need to encourage a completion date. The work would have to be inspected as completed and presented at the next board meeting as completed. After that date, the time would start over.

It was discussed if equipment would be considered. The only thing the committee would consider would be large equipment assets, that would aid in capital improvement or improve the cemetery. The committee said low value equipment would not be considered.

Mr. Akers had a list of several things that would be allowed under the capital improvement and infrastructure improvement. However, that it would not be allowed for normal routine maintenance of the cemetery or grounds maintenance, like mowing, weed eating, trimming, bush manicuring, etc. that must be done on a daily or recurring maintenance. Daily operations would be excluded. Anything would ultimately have to be approved by the Board.

Ms. Gibson stated that we needed to clarify what we mean by capital improvements and infrastructure repair. Mr. Curl asked for her to research some examples to help define these terms. Tree removal could be considered a major issue. The committee stated that the Board need to be able to address all requests, so depending on the request it could be considered.

Ms. Vestal inquired if we should consider the hit that the trust would take from the request. There should be some sort of cap on the percentage that they would be allowed to receive. Up to 20% would be the max and that is it.

The staff should inspect the cemetery before and after. The cemetery operator should appear before the Board with their request application.

Mr. Curl wanted to cover some high points of the meeting today.

- The Board will approve the application.
- We will require at least three (3) bids, one of which may be an in-house bid.
- Establish the completion of the project and when the project is complete, payment is issued.
- The completion of the project to re-start the 10-year window.
- The definition of infrastructure repairs and capital improvement
- Up to 20% max allowed.
- The applicant required to appear before the board.
- The staff would inspect the cemetery, pre and post project.
- Maybe see about updating the law in 2023 to consider a fee for staff review of application once there is a history of requests and expenses involved to accommodate them.
- A timeframe to file the application before it would be considered before the Board. A checklist would be created. No time frame and it would be only be considered, once we have enough in advance the information, to appear before the next meeting. Up to the efficiency of the applicant.
- Case by case basis.

The goal is to get these rules done and to the governor's office the earlier the better, to get it promulgated in time to meet the January 2022 requirement of law.

There is another Act 731 that will also require rule changes. These will be a separate rule promulgation from the Act 343 rule required by January 1, 2022.

Goal is to have the Act 343 rule ready to present to the full board by June.

There is a rule committee meeting already scheduled for May 17th, the next rule committee meeting can be determined after the May 17th meeting, and after the drafts from today and that meeting are ready.

HB1131 now Act 731, is updating the cemetery rules, which is a lot of clean up language. The rule the committee was working on over the past year and half, can be updated to include these required changes.

Next meeting of the rules committee will be May 17, 2021 in the Diamond Mine Room. There was nothing further to discuss and Mr. Curl adjourned the meeting at approximately 3 PM.