

1158 Library



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

June 25, 2001

The Honorable Verna Moore
Coroner, Sumter County
Sumter County Courthouse
Sumter, South Carolina 29150

Re: Indigent Cremation/Burials

Dear Coroner Moore:

You have written this Office to request an opinion regarding the disposal of bodies of indigent individuals. Specifically, you present the following:

The Sumter County Council is in the process of turning the indigent burial over to my office. Cremation is the policy that I am seeking. I have the laws of the cremation policy. I know that if there is a wife and children they all must agree to the cremation by their signatures.

Now the Council wants to give the families/funeral homes an alternative by accepting \$300 from the county towards the burial of a loved one. This to me is not a legal way to spend tax payers money and I don't feel that is something my office should do.

The reason this came about DSS sent 10 cases to the Human Resource officer for burial by the county since January 1, 2001 without any type of investigation.

My question is this: I know cremation is the answer as the cost would only be \$300., but can County Council do this by resolution only? Also, is it legal to pay \$300 towards funeral expenses if the family decides they don't want to pay for the funeral?

Basically, you present the following questions for response:

- 1) Can the County legally appropriate money for the funeral expenses of indigent deceased persons when the family of the deceased will not pay the expenses?
- 2) Can such an appropriation be made by resolution only?

Request Letter

The Honorable Verna Moore

Page 2

June 25, 2001

County Governments are authorized to appropriate and expend public funds for services and property which serve a public purpose. S.C. Code Ann. §4-9-30. The disposal of the bodies of indigent individuals is clearly such a public purpose. In fact, this Office has previously opined that "the General Assembly has recognized the responsibility of disposing of [such] bodies at public expense." See OP. ATTY. GEN. (Dated September 28, 1995). The method chosen by the county for disposal, i.e. cremation or burial, does not alter the public purpose of the expenditure. Therefore, it is my opinion that, the Sumter County Council can "give the families/funeral homes an alternative by accepting \$300 from the county towards the burial of [an indigent] loved one."

Whether such an appropriation would be the best use of county funds is a policy decision which must be made by the council after the appropriate procedures for making such expenditures have been followed. I have enclosed for your reference the above cited Attorney General's Opinion. The Opinion provides an analysis of the relevant statutes and discusses the coroner's authorizing cremation in the face of objections based on "religious or family beliefs ... even if the family would not accept responsibility for the deceased." The opinion also references S.C. Code Ann. §17-5-290 which provides, in part, "[i]f the deceased has an estate out of which burial expenses can be paid either in whole or in part, the estate must be taken for that purpose before an expense under this section is imposed upon a county." So there is some authority for the county to take the estate of the deceased prior to expending any money for his/her burial when no loved ones claim the body for burial.

You also inquire as to council's ability to expend money for the funerals of indigents by resolution only. An expenditure of this nature would have to be done by appropriation. Accordingly, no matter what the appropriation is called, the terms of S.C. Code Ann. §4-9-130 would have to be complied with. Section 4-9-130 provides, in pertinent part, that "[p]ublic hearings, after reasonable public notice, must be held before final council action is taken to: ... make appropriations, including supplemental appropriations..."

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,



David K. Avant
Assistant Attorney General

DKA/an
Enclosure