

Missoula Cemetery Board Meeting
Thursday, April 6, 2017
12:00pm
Missoula City Cemetery Office

Minutes

Present: Kim Seeberger, Mary Lou Cordis, Paul Filicetti, Ron Regan, Mary Ellen Stubb, Lani Moore, Pat McHugh

Absent: Marjorie Jacobs

Approval of board minutes: March 2017 unanimously approved with the addition of the following addendum item: Letter from Missoula City Cemetery to the Chamber of Commerce dated 3/8/2017.

Public comment. None.

Financials. Revenues and expenditures reviewed.

New or Continuing Items.

BOARD RE-APPOINTMENTS. Mrs. Seeberger and Mr. Filicetti were reappointed by City Council. Their terms end on April 30, 2020. The cemetery has one vacant position on the board to fill.

FY18 BUDGET. Cemetery budget documents reviewed with much discussion. The cemetery has not received the narratives for each fund yet. The cemetery will highlight projects completed in FY17 and update information in the narratives when those documents are received. Budget highlights per fund:

General Fund 1000. Wage allocations, utility increases, and job titles were updated and corrected.

Niche Fund 1241. Cemetery requests spending authority through CIPs for improvements to the new columbarium plaza. CIP updates from FY17 note that the columbarium walls are ordered and target completion date for installation is mid-June.

Care Fund 1242. Cemetery requests spending authority through CIPs for equipment replacement and building improvement. City Council approval means the cemetery has authority to use the money if needed but the final decision to spend the money is made by the Cemetery Board of Trustees. New CIP requests for a multi-functional mower and a utility cart serve as place holders. The cemetery needs spending authority approval in case one of these items breaks down permanently but the cemetery does not plan on purchasing these items unless necessary. The request for energy saving heaters for the shop building was originally part of the 2009-10 energy saving audit done by the city. The audit determined that the shop heaters were very old and inefficient, however, they were not included in the final replacement plan of the city at that time. The cemetery will research to see if there may be city money available to assist with this project. A portable hot water pressure washer request will assist in monument, equipment, and grounds cleaning. CIP updates from FY17 note that the mower was postponed to FY18 and the cemetery plotter purchase was complete.

Memorial Fund 1243. Cemetery requests spending authority through CIP for improvements to the new columbarium plaza.

Mr. Filicetti suggested the board initiate steps to lay out a master plan for the cemetery targeting money in cemetery funds for improvements based on those plans. Mrs. Cordis provided past history on the use of cemetery funds. Master plan discussions occurred in the past but nothing ever came of those discussions. Mr. Filicetti said the timing is right to do a master plan since WGM has completed the master plan for this area as a whole. The cemetery needs planning so that we can control ideas that impact us. Once a master plan is in place then the cemetery can reach out to MRA for possible financial assistance with parts of the plan. The cemetery then could also justify the need to receive all care fund and revenue money to support the cemetery through this master plan. The city maintains a financial responsibility to support the cemetery and a master plan could offer possible new revenue to assist in that support. **MOTION: Mrs. Cordis moved to accept the budget items as**

reviewed and allow the cemetery to continue completion of the budget process. Mr. Filicetti seconded. Ayes, four. Absent, one.

ORDINANCE. Ordinance updates, changes, and sections with conflicting language reviewed with much discussion. Board members will review changes one last time in May. Ordinance highlights or areas needing further revision:

- Page 15. Monument installation. Monument information reflects cemetery setting services while the liability section is for situations when an outside company works at the cemetery.
- Page 13. Scattering of ashes. Wording needs revised in this area. Points to make in the revision are that this is sacred ground for perpetuity, there needs to be respect for thoughtful placing of ashes and recording of that information, and that the cemetery is researching options for this request but scattering is not allowed at this time. Ways other cemeteries handle requests for scattering ashes were discussed and those ideas are worth considering as future options.
- Page 15. Monument permits. The cemetery will set all monuments but when a company brings a monument to the cemetery for setting, the monument must still meet the guidelines in this ordinance. Granite foundations are allowed but the cemetery setting fees will stay the same. The pre-verification process brings grave issues to light such as trees, bushes, or existing stones. This board has authority to make policies and the city attorney suggests that happens as we move forward. Mr. McHugh noted that flexibility is lost when policies are added to the ordinance. Discussion on the bench policy followed. It was decided to leave the policy in the ordinance for now but consider removing it at the next ordinance revision and placing it into policy at that time
- Page 17. Remove extra space between number and inches.
- Page 18. Vases on monuments. Remove the word monument and leave the word company. Mrs. Seeberger asked about wording for who would remove and replace vases when warranty work is required on one. The cemetery could place wording allowing staff to do this service when requested but with a provision protecting staff from responsibility if the vase breaks during this process.
- Page 24. Staff. The city attorney recommends leaving this wording so board members can have the right to be part of staff review should they so choose.

FEES. Proposed cemetery fees reviewed with much discussion. Fee change highlights:

- New niche walls. Double niche fee on new walls will increase to \$1,400. This fee is double the cost of a single niche and remains a fair price.
- Infant grave fee. Remove \$100 fee.
- Overtime. Fee was calculated using time and labor costs. All placements occurring outside regular hours will incur the overtime fee including infants. The overtime fee is in addition to the opening and closing fee.
- Liners. The cemetery recommends lowering this fee. There was much discussion regarding how this fee was originally established, the amount of revenue that might be lost if the fee was lowered, where that revenue might be made up, justification for lowering the fee and recommendations for a new fee. This fee was set years ago to keep in alignment with area cemeteries. The cemetery anticipates that revenue from new services will make up the revenue loss from lowering this fee. The justification for lowering the fee is that the markup is too high. The board recommended lowering this fee from \$800 to \$600 which matches the percentage markup charged for polyvaults.
- Permit. The cemetery recommends lowering this fee from \$180 to \$100. Permits will now be processed in-house which results in less tracking. All monuments will be charged the same permit fee so the current veteran permit fee will go away.
- Setting. These fees will be charged for the setting of each monument. The setting fee includes a cement foundation reinforced with rebar and cemetery time and labor for setting. Setting fees will be charged even when a granite foundation is used. The cemetery will support local business by

purchasing foundations from Hunton Concrete. Cemetery research shows prices vary greatly but these proposed fees fall right in line with current rates. The board reviewed each foundation cost and considered the new fee a fair rate to charge.

- **Monuments.** A discussion is needed for the markup rate when selling monuments. Cemetery research shows the average markup in the area currently sits between 2x and 3x cost. This is an area to discuss and work on as we get closer.
- **Variance.** This fee has not been set yet. A variance is a request for a wider foundation. Some variance foundations may have to be poured on site and others will take a little longer for Hunton to pour. A fee needs set as we move forward.
- **Cleaning.** This fee has not been set yet. Cleaning monuments will be based on materials and labor. The recommendation is to keep this service at a reasonable cost. Some monuments will take longer to clean than others, but if the cemetery focuses on customer satisfaction at a reasonable rate then it will generate returning business.

NEW COLUMBARIUM PLAZA. Mr. Filicetti was commended on a great job designing the new columbarium plaza. Projective cost for site preparation and colored concrete will run about \$40,000. If cemetery staff prepares the site then this cost will be greatly reduced. The overall design shows two phases. The first phase shows the three walls ordered this year and the second phase shows expansion for three more walls in the future. The area is completely ADA accessible, shows a rectangular solar pond in the center, and benches throughout the plaza. All board members were very pleased with the design. Options for possible memorials in this area were also discussed. Mr. Regan reported that the cemetery plans to begin pouring the plaza for the walls currently on order. The landscaping, benches, pond, etc. can be added in stages through the use of revenue from niche sales.

MOTION: Mr. McHugh moved to initiate cement work on the columbarium plaza based on the architectural design submitted by Mr. Filicetti. (See Attachment #1) Mrs. Cordis seconded. Ayes, four. Absent, one.

Informational Items.

LAND: NORTHSIDE URBAN RENEWAL DISTRICT. There was nothing new to report but board consensus focused on the need to begin work and adopt a master plan to protect the cemetery.

PARKS AND CONSERVATION COMMITTEE MEETING. Garden City Monument Services, Garden City Funeral Home, their attorney, a Chamber of Commerce representative, and a former monument company owner presented their concerns to this committee. The concerns expressed at this meeting are the same as recorded in their letter addressed to cemetery board members and their public comment documented in cemetery board minutes. Board members can view the entire meeting dated April 5, 2017 on the council webcast page. An email from City Attorney Nugent is attached to these minutes. (See attachment #2)

VETERAN MONUMENTS RAISED. (Non-agenda discussion item) Mr. Regan showed pictures of rows of veteran monuments before and after raising. This section had become a major trip hazard and mower issue because the sod has risen above the foundations. The cemetery tries to raise some stones every year and this area has been on our agenda for some time. Everyone thinks that monuments sink but that is not correct. The sod grows up over the concrete over time which is why the required mow strip is so important.

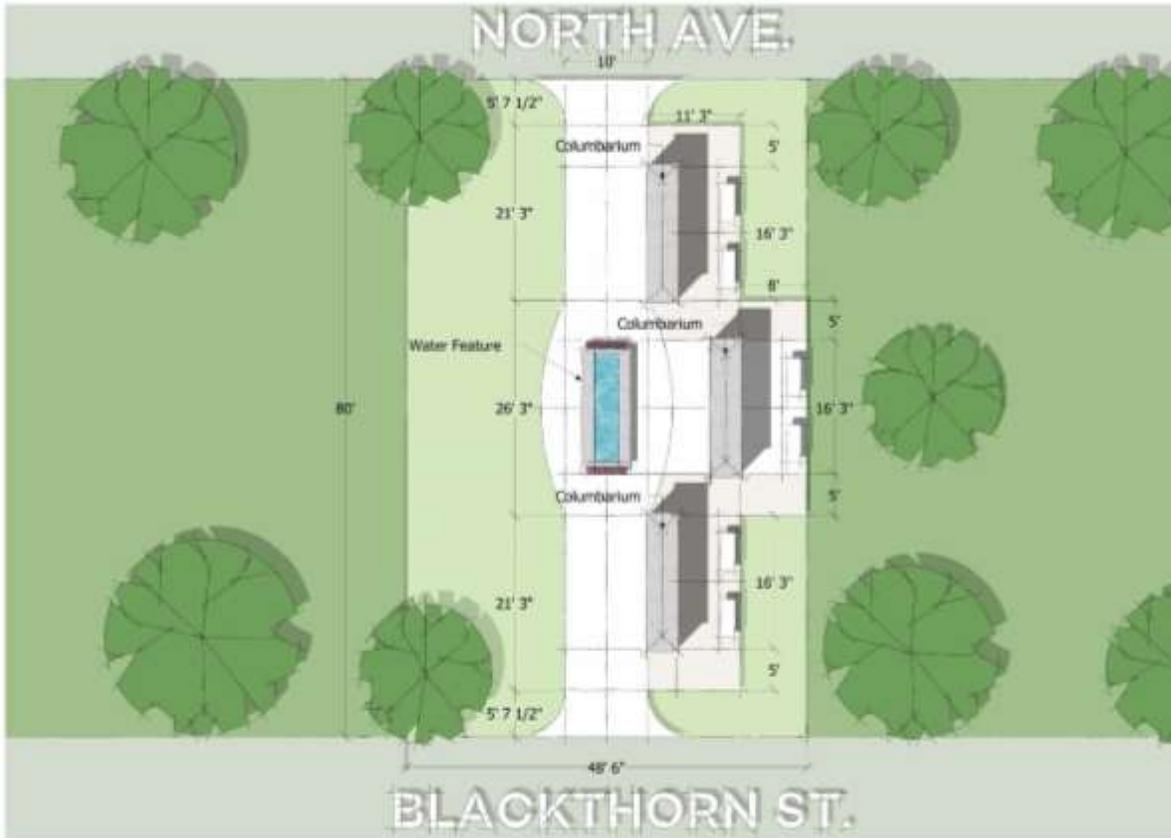
FLOWER CARE. Mrs. Moore reported flower invoices are coming in right on track.

HISTORIC PRESERVATION AWARD. Mr. Filicetti is a member of this committee and reported that the historical award applications are scheduled for review this evening.

Adjournment at 1:55pm. Next meeting will be May 4, 2017.

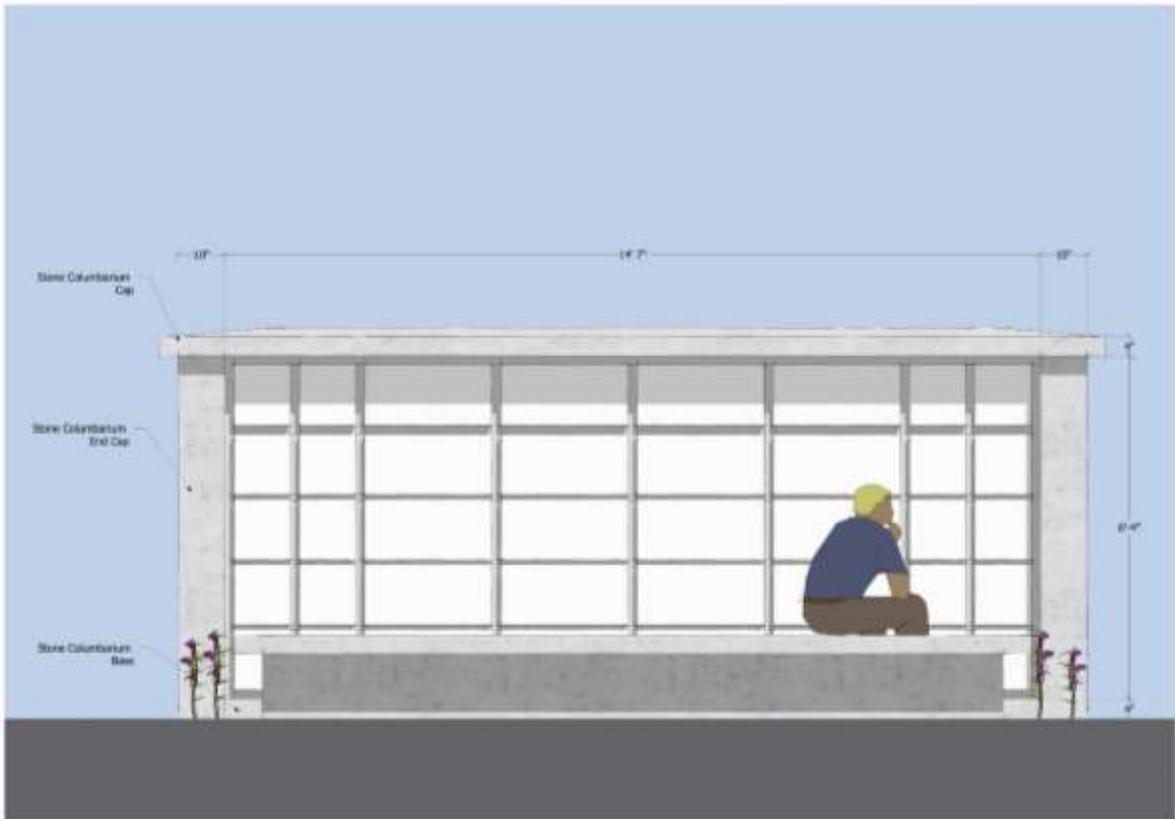
Respectfully submitted by Mary Ellen Stubb, Administrative Assistant III

Attachment #1: Columbarium Design



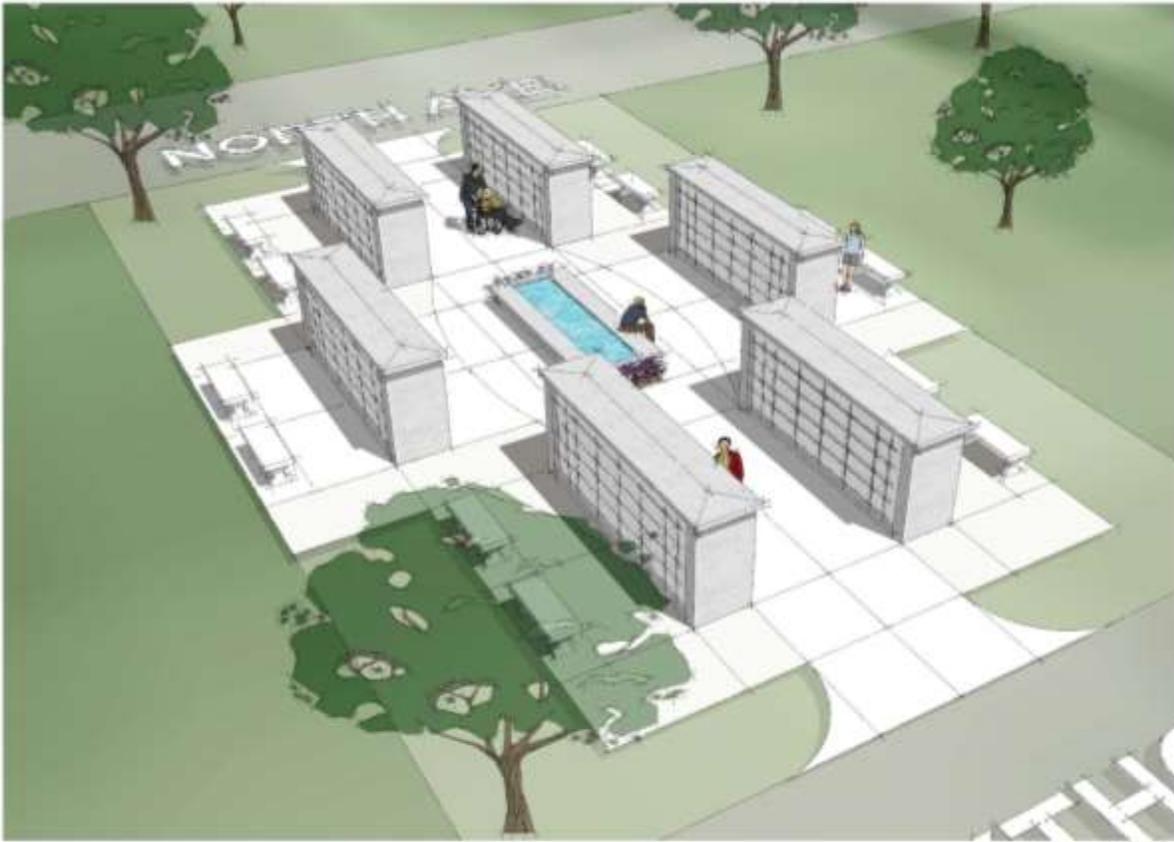


Missoula City Cemetery Columbarium Design



Missoula City Cemetery Columbarium Design
Columbarium Elevation





Missoula City Cemetery Columbarium Design



Missoula City Cemetery Columbarium Design

Perspective Looking North





Missoula City Cemetery Columbarium Design
Perspective Looking East

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ARCHITECTS

Attachment #2: City Attorney email re: Cemetery Board and City of Missoula Authority

From: Jim Nugent
Sent: Wednesday, April 5, 2017 3:20 PM
To: Grp. City Council and City Web Site; Dept. Mayors Office; Ronald Regan; Mary Ellen Stubb; John Wilson
Cc: Dept. City Clerk; Dept. Attorney; Leigh Griffing; Steve Johnson; Scott Paasch
Subject: City cemetery board has power make rules/regulations it deems necessary to (1) care, (2) manage, (3) present and (4) improve city cemetery and cemetery grounds

TO WHOM IT MAY CONCERN:

The City of Missoula owns both the city cemetery grounds as well as the city cemetery.

No private attorney has any authority to issue a “cease and desist” order to either the Missoula City Council or the City cemetery board of trustees with respect to the City of Missoula owned, operated and managed city cemetery. The attorney for the monument company can only politically lobby the city council and/or city cemetery board of trustees for their desired outcome. Only a court can issue cease and desist orders based on the specific factual circumstances that a court believes might justify a cease and desist order in specific factual circumstances.

Pursuant to section 12.44.310 (B) Missoula Municipal Code (MMC), subject to the control of the Missoula City Council, the City Cemetery board of trustees “shall have full charge, control, custody, management and supervision of” City cemetery property, real or personal, used, occupied, or possessed in connection with any such Missoula City Cemetery grounds or places of burial.

Further, pursuant to section 12.44.310 (D) MMC the City of Missoula City Cemetery board of trustees “shall have power to make, subject to the approval of the Missoula City Council, such rules and regulations deemed necessary “for the care, management, presentations and improvements of“ the Missoula cemetery and cemetery grounds.

In addition, subject to city council control, the specific management authorizations to the city cemetery board noted above, it must be noted and emphasized that the 1972 Montana Constitution established a Montana Constitutional mandate that the powers of all Montana local governments “shall be liberally construed”. See Article XI(4)(2) stating “THE POWERS OF INCORPORATED CITIES AND TOWNS AND COUNTIES SHALL BE LIBERALLY CONSTRUED.” (emphasis added)

Montana municipalities exist for the purpose of securing and promoting general public health, safety and general welfare. Montana municipalities may promote or facilitate general public health, safety and general welfare through provision or performance of a broad variety of municipal series and functions. It is important to note and emphasize that there are numerous municipal government services or functions performed by the City of Missoula that some person in the private sector might potentially complain competes with private sector entities and/or private persons who might desire to privately perform a service or function.

Municipal service or function examples include; but are not limited to:

- (1) Park and recreation exercise/health oriented programs that might also be offered elsewhere such as at health clubs. Note multiple times the Montana League of Cities and towns has had to lobby against proposed state legislation that would have purportedly prevented competition with private workout/athletic clubs.;
- (2) City owned and operated indoor and outdoor swimming pools;
- (3) Park and recreation lessons, such as tennis lessons or swimming lessons, etc.;
- (4) Park and Recreation food trailer and/or food and drink sales at several locations competing with vending machines and other mobile food and drink trailers;
- (5) Public street construction, reconstruction, chip sealing, paving, etc., etc. by city employees, rather than city employing private contractors. Whether City of Missoula could utilize gas tax revenues to pay for city employees

performing street work was litigated to the Montana Supreme Court. City of Missoula successfully defended its right to use gas tax revenues for street related work via utilizing city employees rather than private contractors. There actually were numerous government defendants; but I was the attorney that wrote the legal briefs and successfully argued the case before the Montana Supreme Court. See Montana Contractors' Association v. Montana Department of Highways, Butte-Silver Bow; Cascade County; City of Great Falls; Missoula County; and City of Missoula, (1986) 715 P. 2d 1056. In addition to having to successfully litigate this street crew work issue, multiple times the Montana League of Cities and Towns has had to lobby against proposed state legislation that attempted to limit/restrict local government power/authority with respect to utilizing local government employees to perform street work.

- (6) City vehicle maintenance performed by in house city employed vehicle mechanics, rather than private contracted mechanics;
- (7) Information technology in house staff rather than contracting out to private contractors;
- (8) Garden City Compost selling compost throughout western Montana.
- (9) City Parking Commission providing off-street parking spaces;
- (10) City parking Commission managing privately owned parking lots;
- (11) Wastewater treatment employing its own lab technicians, rather than contracting out lab testing needs;
- (12) City police performing some security work;
- (13) City fire inspection/protection/medical services;
- (14) city building/plumbing/electrical, etc. inspectors;
- (15) City Council authorized and city voter approved Missoula Housing Authority with board/commission members appointed by mayor;
- (16) Fire department medical response, often arriving prior to ambulances;
- (17) Mountain Line, mass transit competing with taxis, Uber, limo service, private car rental/sales dealers/companies with City and county sharing appointments to Mountain Line board of directors.
- (18) Very existence of city cemetery itself for many decades;
- (19) City employee accountants;
- (20) City employee attorneys;
- (21) City employee administrative support staffs;
- (22) City human resources staff;
- (23) Etc., etc..

JIM NUGENT