

Missoula Cemetery Board Meeting
Thursday, February 1, 2018
12:00pm
Missoula City Cemetery Office

Minutes

Present: Mary Lou Cordis, Paul Filicetti, Kim Seeberger, Ron Regan, Mary Ellen Stubb, Angela Reichert, Ryan Sudbury (City Attorney), Tyson Moore (Garden City Funeral Home), Bob and Michelle Jordan (Garden City Monument Services)

Absent: Pat McHugh

Approval of Minutes: December 2017 minutes unanimously approved as submitted.

Public comment. Mr. Jordan stated past minutes called out their company for issues in leveling stones. That was a misinterpretation. He never objected to leveling new stones. He did object to being required to level other stones around the area that had nothing to do with the new one. He noted past minute dates as November 2, 2017 (regular board meeting) and November 8, 2017 (sub-committee minutes.)

Mr. Jordan acknowledged that he did not fully meet some new requirements that he guessed were agreed upon. He then received a letter from city attorney threatening to sue and put him in jail. He noted his business was not the only one to receive this letter. He added that if things could not be worked out nicely with phone conversations, then problems would continue.

Mr. Jordan stated he has a client who wants buried here in a mausoleum, but who wishes to remain anonymous out of concern that other cemeteries will try to get his business. Mr. Jordan said Mr. Regan had given him grave cost and the requirement to purchase eight graves. But, Mr. Jordan said he was unable to get answers for foundation cost, how the mausoleum should be brought into the cemetery, and other setting questions.

Mr. Regan explained the information given over the phone was directly out of the ordinance and considered a starting point. The ordinance does not have a lot of information. A drawing with measurements and foundation information is required to bring before the board. Any other requirements, like footings or permitting, are unknown until after discussing the weight load with city engineers. Mr. Moore stated mausoleums come with an engineered drawing and questioned who would be responsible for the off-loading and riggings. Mr. Regan stated mausoleums are places of burial with bodies placed inside, not monuments, so they are out of the cemetery scope of work. Mr. Moore questioned if mausoleums were exemptions to ordinance. Mr. Regan explained there was no exemption. The ordinance has wording in the liability section that allows outside businesses to work within the cemetery. Mr. Moore restated his understanding that the cemetery does all the monument settings but anything beyond that scope allows outside businesses to do the work and be responsible for the installation. Mrs. Seeberger suggested Mr. Jordan start with a drawing and measurements then the board could address all the issues brought up. Mr. Jordan said size would be a rough estimate and might change. Mrs. Seeberger questioned if the foundation size would change. Mr. Jordan noted it would not. Mr. Regan added that the size has to meet the five foot border requirement on all sides.

Mrs. Jordan said she understood the need for the 60-day pre-verification. Her concern was having to pay the permit fee early when special order monuments have a delivery date 120 days out. She understood the cemetery wanting foundation information in a timely order, but paying fees too early is a hardship. She planned to write a letter to the board but wanted to communicate this information verbally first. Mrs. Seeberger noted that timing and policies were discussed at previous board meetings and in the subcommittee meeting; and, that everyone had agreed on those policies and timing. Mrs. Jordan disagreed. She stated the board agreed and told them how it was to be. If the board wants open communication then she is giving open communication now.

Mr. Moore stated that everyone agreed in meetings to have open communication so he did not understand the need for city attorney to send a threatening letter. While the letter stated open violations, he could not come into compliance if the letter does not specify the violations. The memorial issue had been in the ordinance a long time but he had already worked that out with Mrs. Stubb. The delivery date issue was new policy, talked about in meetings, and he cannot guarantee delivery by that time. Both Mr. Moore and Mrs. Jordan agreed that although delivery notice was removed from policy, they supposed they could call the day of delivery.

Mr. Regan asked for notice a couple days ahead of delivery. Yes, Mr. Moore had warned him about removing the required notice and not protecting ourselves. But, the cemetery chose to trust that open communication and common courtesy would generate a phone call in advance of delivery. This did not work with the first delivery from Mr. Moore. In this case, the permit was completed the day before a monument was supposed to be delivered to the cemetery and then it never showed up. When the monument was delivered, there was no advance warning, but instead, the driver just showed up at the cemetery office. Mr. Moore stated he had no intention of delivering the monument on the estimated date because it was an estimate. Mr. Regan stated this was getting really petty. Mr. Moore agreed that they could make a phone call. However, he stated that receiving the attorney letter on the first monument they completed was petty. Mr. Regan said that while he appreciated that, the letter was just a reminder. It was not threatening and it had dates to come into compliance and why but did not state jail time. Mr. Moore quoted the last page of the letter and stated that that sure looked like jail time. Mr. Sudbury (City Attorney) stated this was standard penalty language. Mr. Moore stated he is good with open communication. If he needs to make a call, then he will. But, looking back at the policies it states that deliveries are during certain hours. The notice time had been taken out. He was not appreciative of the letter and stated that open communication must go both ways instead of an immediate letter from city attorney.

Financials. Revenues and expenditures were reviewed.

New or Continuing Items.

POLICY REVIEW. MOTION: Mr. Filicetti moved to enter the attorney issued letters into record. Mrs. Cordis seconded. Ayes, three. Absent, one.

Mr. Filicetti asked for discussion on how the policies were going. Mr. Regan noted there were a few issues to bring to the board. First, Mrs. Jordan informed cemetery staff that paying her permits when required was a hardship. He recommended she write a letter to the board for their discussion and explained to her that cemetery staff has instructions not to deviate from policy. Mrs. Jordan plans on sending a letter but wanted to give her comments in person to the board first.

Next, Mr. Regan stated deliveries are a hiccup and not working. We need to go back to policy and figure something different out. He would really rather work things out instead of making everything into a policy. For example, Mr. Moore had a stone that, according to the permit, was to be delivered to the cemetery on Friday, January 5. Cemetery staff was ready, but the stone did not come and there was no phone call. Two full weeks later, Memorial Monuments delivered the stone with no warning. This sent cemetery staff scrambling. Memorial Monuments stated their original instructions were to deliver the stone to Sunset on Saturday, January 6. Two full weeks later, they were instructed to pick that same stone back up and deliver it to Missoula Cemetery. They were not told to call the cemetery in advance of delivery. Mr. Regan stated a simple phone call giving the cemetery the day, time, and which stones were to be delivered is all the cemetery is asking. That way the cemetery can have people available to check in the stones. Mr. Moore stated he understood and that calling the cemetery in advance of future deliveries was not a problem.

Mr. Moore noted the issue comes when sending the permit six months ahead. The delivery date is not exact. In the subcommittee meeting it was understood that a phone call was needed before delivery. He understood that his stone showed up at the cemetery without notice. This goes back to open communication to work things out instead of an attorney letter. Mr. Regan stated that we all sat and agreed on policies but then

things started getting pushed. The cemetery board is in the loop with all conversations and included on all emails. He no longer has the ability to give handshake variances from policy. When Mrs. Jordan came in claiming a hardship and wanted to work a deal, Mr. Regan was unable to answer her because everything must now go to the board.

Mr. Regan noted the pre-verification time began with two weeks, but was finally approved at 60 calendar days. Companies are responsible to contact the cemetery by that time to tell us if the stone is sold or not and if they need to extend that time. This has all gotten messed up. Mr. Moore noted that this issue was not with their funeral homes. Mr. Regan stated that right off the bat, policies were being pushed. Mrs. Jordan stated that families do not get back to her which happens a lot. Now that she understands what the board wants, she can alert the cemetery and not have to re-issue pre-verifications.

Mrs. Stubb stated that all this had been explained again in the email correspondence. Companies need to contact the cemetery before the 60 days are up and update the cemetery on the status of the order. If the monument has been sold, then permit and fees are due. If the family has not approved the proof, then simply tell the cemetery that along with giving the monument size. This would prevent both the company and the cemetery from having to re-issue paperwork and it would keep everyone informed.

Mr. Jordan stated that the size when ordered can vary from the size delivered. Mr. Regan replied that selling a stone on a single grave has to work within the size and mow strip requirements and, that can easily be done. Stones on a double grave have to stay within the 24-inch headspace but the foundation can adapt with the length.

Mr. Regan gave another example of a stone that recently was granted a height variance. The variance drawing showed a length of 66 inches, but the permit delivered today was for 68 inches. We have flexibility in length on a double grave and can adapt the foundation to meet this rather than reject it. We cannot adjust the width. Single graves are restricted and do not have flexibility. Mrs. Jordan and Mr. Moore both questioned what measurements should be given for the pitched edges on this stone. Mr. Regan noted the variance drawing gave a 66 inch saw cut, not a pitch.

Mr. Regan re-stated that a four foot foundation used to accommodate a 36-inch stone, but because the companies complained they could not make that work, the cemetery went to a five foot foundation. Then, companies started selling larger stones and could not make a four foot monument work. So, the cemetery went back to the original size requirements. The 50-inch foundation is the max size for a single grave and barely misses cemetery survey pins.

Mr. Moore noted the size given on the permit is the size sold. He questioned if the cemetery was going to wait to set foundations until the base showed up because that size could differ. Mr. Regan agreed. He would have loved to preset foundations, but due to the rock pitch varying from the estimated size, the cemetery will not preset. If size varies in the front and back, though, that is a problem. So, even though Mr. Jordan used to preset foundations, the cemetery will not. Mr. Moore noted that presetting foundations was what got Mr. Jordan into trouble because the rock pitch was too long for the foundation.

Draft policies that were given to board members for future discussion and policy language were for scattering cremations, accessing and removing partial cremations from a niche, and filming in the cemetery. The goal is to be pro-active in policy setting for these situations.

MOWER. Mr. Regan is working with Scott on bid specs. Nothing has gone out yet but the process is ongoing.

SHOP HEATERS. Same as the mower.

SILVER PARK IRON STORAGE. Doug Olson, a member of the art committee, came to the cemetery yesterday to look at the metal. Neither MRA nor the art committee want the metal or claim ownership of it. Doug Olson is interested in the metal for himself. MRA referred the matter to city attorney. It was unclear if the items

had to go to auction or not. Mr. Sudbury knows there are ways to give to non-profits but giving to a private entity is much harder.

BOARD BY-LAWS. Mr. Filicetti stated he had a few questions for Ms. Aaberg. The bylaws are missing a statement about the board role in finances, especially the budget. There is language to remove a board member but none noting the process should someone wish to resign. There also is no language for proxy voting. Mrs. Seeberger tabled this discussion until next month. Language questions should be emailed to Ms. Aaberg so she can address them.

MASTER PLAN. This item was tabled this until next meeting.

Informational Items.

BOARD VACANCY. The cemetery received notice the Mayor is appointing Neil Carson to the cemetery board. The approval goes before Council this month.

Adjournment at 1:08pm. Next meeting will be March 1, 2018.

.....

Letter emailed to Bob and Michelle Jordan of Garden City Monument Services on February 28, 2018 and added to record upon approval of February minutes.

Bob and Michelle,

We met with Gwen Jones and Jesse Ramos last Friday, February 9, 2018. Jesse had a number of questions regarding pre-verification, what was required at the end of the 60 days, and when fees were due. We have answered those questions within the policy process order. We hope this is helpful.

Monument Policies. All forms and polices are available on the cemetery website.

This is how the cemetery monument process should flow:

Step 1: Pre-verification. Pre-verifications have been in place for years. A pre-verification is when the cemetery reviews the grave for anything that may prevent placement of a new monument such as an existing monument, shrubs, or tree roots. If there is an issue with a grave, the cemetery will work directly with the family to correct the issue. This is why family contact information is needed on the pre-verification.

- Submit the pre-verification form. **No fees are due at this time.**
- Pre-verification is valid for 60 calendar days unless an exception is granted by the cemetery. If a family is still deciding on the design, this would be a reason to extend the pre-verification. To request an extension, the monument company needs to email the cemetery telling us the status of the monument. As we have explained before, it would be helpful if the monument size could be included in this request.
- Without communication from the monument company, the pre-verification will expire and a new pre-verification will need to be submitted when the family is ready to move forward.
- Requests that deviate from standard cemetery rules and regulations need to submit an Application for Variance along with the pre-verification form.

Step 2: Permit. The permit is due once the monument is sold. The permit gives the size of the monument and an estimated delivery date to the cemetery.

- Submit the permit form. **The permit fee and setting fee are due with this permit.**

- The cemetery will be ready for the monument by the estimated delivery date.
- Advance notice of delivery is required so cemetery staff is available to check-in the monument delivery. Monuments are checked for damage and photographed upon arrival at the cemetery.
- Deliveries are accepted M-F between 8am-2:30pm.
- Monument acceptance is based on compliance with cemetery requirements. Each monument is measured to verify that height and mow strip requirements are met.
- Monuments that do not meet cemetery requirements shall be removed from the grounds.

Application for Variance. The intent of the cemetery is to adhere to cemetery ordinance, yet in certain situations a variance or deviation may be warranted. This form should be used when, for example, a family wants a larger monument or foundation than what is standard.

- Submit the variance form. **No fees are due at this time.**
- A detailed drawing that shows the design of the monument, the monument layout on the foundation, and all measurements for the monument and foundation is required.
- Variances may require additional time to complete.
- Variances may require additional written authorization from grave owner or legal representative.

Memorial Day. Monuments delivered to the cemetery by *April 15th* will be set by Memorial Day. After this date, the cemetery will make every attempt to set monuments by Memorial Day.

Setting. Monuments are set year-round, weather permitting.

Communication. The cemetery maintains open communication with both the family contact and/or business throughout the monument setting process.

We hope this is helpful and clears up any confusion with the monument policies. Please contact us if any further clarifications are needed.

.....

Letter emailed to Bob and Michelle Jordan of Garden City Monument Services on February 28, 2018 and added to record upon approval of February minutes.

Bob and Michelle,

Jesse Ramos expressed a concern regarding the cemetery columbarium purchase process from 2016. His concern was that Garden City Monument Services was given only three days to complete the bid packet.

As we explained to Jesse, eight companies were sent an email and a hard copy of cemetery specifications on October 28, 2016. Packets were due on November 11, 2016. Six of the eight companies submitted bid packets. Garden City Monument Services in Missoula was one of two companies who did not submit any information or contact the cemetery regarding the process.

We will be happy to answer any further questions you may have regarding this process.

.....

OFFICE OF THE CITY ATTORNEY

435 Ryman • Missoula MT 59802
(406) 552-6020 • Fax: (406) 327-2105
attorney@ci.missoula.mt.us

2018-004

January 10, 2018

Tyson Moore
Rick Evans
Garden City Funeral Home
1705 W. Broadway St.
Missoula, MT 59808

Re: Missoula City Cemetery Ordinance and Cemetery Policies

Dear Tyson and Rick:

As you know, the Missoula City Cemetery Board met and established policies for working in and laying monuments at the Missoula City Cemetery. In fact, you both were present and participated in drafting the policies that were ultimately adopted and you both were in agreement with the policies that were drafted and approved. According to the minutes of the Cemetery Board Sub-Committee on Policies we all agreed that the common goal was to maintain timely, open communication so that both your agency and the City Cemetery could serve families with efficiency. Finally, you were both present at the December 12, 2017 City Cemetery Board meeting when the Cemetery Board of Directors had an open discussion and approved the policies and neither one of you objected.

It has come to my attention there are possible violations of those recently adopted Cemetery Policies as well as potential violations of the Ordinance approved by City Council. I have reviewed the Cemetery Ordinance as well as the policies that have been adopted and am reaching out to you with this letter as a gentle reminder that violations of the Cemetery Ordinance or Cemetery Policies can result in adverse action against you or your agency, adverse action that is intended to stop the violations. Such actions may include, but aren't necessarily limited to, a citation into Municipal Court (See Section 1.20.010 Missoula Municipal Code set forth at the end of this correspondence), your agency being assessed additional fees or penalties for costs incurred by the Cemetery for your continued noncompliance, or, in an extreme case, the possibility that your agency will be prohibited from operating in the Missoula City Cemetery for a period of time until such violation(s) are corrected.

The City Cemetery Board will be including an agenda item for their next Board meeting seeking input from Cemetery staff as to how the policies that were just adopted are working. If the Cemetery Board finds recent policies are being abused, not followed or are not working as intended for Cemetery staff and Cemetery, the Cemetery Board may consider revising

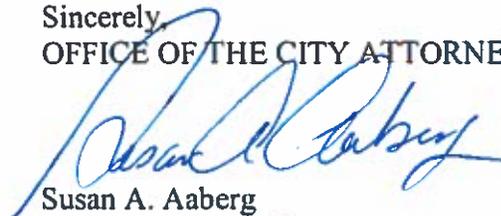
policies to improve the efficient operation of the City Cemetery and their dealings with Ordinance and Policy enforcement with outside agencies as outlined above.

Please follow the Ordinance that was adopted and approved by Missoula City Council as well as the Policies that were adopted and approved by the Cemetery Board. As I indicated above, your agency participated in drafting the policies and you had a representative at the Board Meeting in which they were adopted. Not only did your agency agree to the policies that were drafted, no one from your agency objected when the Cemetery Board took final action to adopt and approve them.

We require that you and your agency come into immediate compliance with the Ordinance and Cemetery Policies and provide re-assurance that the Ordinance and Policies will be followed now and in the future.

If you have any questions, feel free to contact me at the number above.

Sincerely,
OFFICE OF THE CITY ATTORNEY



Susan A. Aaberg
Chief Civil/Administrative Attorney

cc: Cemetery Board of Directors
Ron Regan, Cemetery

Section §1.20.010 of the Missoula Municipal Code that provides:

- A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of any ordinance of the city is guilty of a misdemeanor. Except in cases where a different punishment is prescribed by any ordinance of the city, any person convicted of a misdemeanor under the ordinances of the city shall be punished by a fine of not less than thirty dollars (\$30) or more than five hundred dollars (\$500) or by imprisonment not to exceed six months or by both such fine and imprisonment.

- B. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provisions of the ordinances of the city is committed, continued or permitted by any such person and s/he may be punished accordingly.

OFFICE OF THE CITY ATTORNEY

435 Ryman • Missoula MT 59802
(406) 552-6020 • Fax: (406) 327-2105
attorney@ci.missoula.mt.us

2018-001

January 10, 2018

Michelle Jordan
Bob Jordan
Garden City Monument Services
1035 Ronan St.
Missoula, MT 59801

Re: Missoula City Cemetery Ordinance and Cemetery Policies

Dear Michelle and Bob:

As you know, the Missoula City Cemetery Board met and established policies for working in and laying monuments at the Missoula City Cemetery. In fact, you both were present and participated in drafting the policies that were ultimately adopted and you both were in agreement with the policies that were drafted and approved. According to the minutes of the Cemetery Board Sub-Committee on Policies we all agreed that the common goal was to maintain timely, open communication so that both your agency and the City Cemetery could serve families with efficiency. Finally, you were both present at the December 12, 2017 City Cemetery Board meeting when the Cemetery Board of Directors had an open discussion and approved the policies and neither one of you objected.

It has come to my attention there are possible violations of those recently adopted Cemetery Policies as well as potential violations of the Ordinance approved by City Council. I have reviewed the Cemetery Ordinance as well as the policies that have been adopted and am reaching out to you with this letter as a gentle reminder that violations of the Cemetery Ordinance or Cemetery Policies can result in adverse action against you or your agency, adverse action that is intended to stop the violations. Such actions may include, but aren't necessarily limited to, a citation into Municipal Court (See Section 1.20.010 Missoula Municipal Code set forth at the end of this correspondence), your agency being assessed additional fees or penalties for costs incurred by the Cemetery for your continued noncompliance, or, in an extreme case, the possibility that your agency will be prohibited from operating in the Missoula City Cemetery for a period of time until such violation(s) are corrected.

The City Cemetery Board will be including an agenda item for their next Board meeting seeking input from Cemetery staff as to how the policies that were just adopted are working. If the Cemetery Board finds recent policies are being abused, not followed or are not working as intended for Cemetery staff and Cemetery, the Cemetery Board may consider revising

policies to improve the efficient operation of the City Cemetery and their dealings with Ordinance and Policy enforcement with outside agencies as outlined above.

Please follow the Ordinance that was adopted and approved by Missoula City Council as well as the Policies that were adopted and approved by the Cemetery Board. As I indicated above, your agency participated in drafting the policies and you had a representative at the Board Meeting in which they were adopted. Not only did your agency agree to the policies that were drafted, no one from your agency objected when the Cemetery Board took final action to adopt and approve them.

We require that you and your agency come into immediate compliance with the Ordinance and Cemetery Policies and provide re-assurance that the Ordinance and Policies will be followed now and in the future.

If you have any questions, feel free to contact me at the number above.

Sincerely,
OFFICE OF THE CITY ATTORNEY

A handwritten signature in blue ink, appearing to read "Susan A. Aaberg", is written over the typed name and title.

Susan A. Aaberg
Chief Civil/Administrative Attorney

cc: Cemetery Board of Directors
Ron Regan, Cemetery

Section §1.20.010 of the Missoula Municipal Code that provides:

- A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of any ordinance of the city is guilty of a misdemeanor. Except in cases where a different punishment is prescribed by any ordinance of the city, any person convicted of a misdemeanor under the ordinances of the city shall be punished by a fine of not less than thirty dollars (\$30) or more than five hundred dollars (\$500) or by imprisonment not to exceed six months or by both such fine and imprisonment.

- B. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provisions of the ordinances of the city is committed, continued or permitted by any such person and s/he may be punished accordingly.