



To: Missoula City Council
Missoula City Cemetery Board

Re: Updated cemetery ordinances

The Missoula Area Chamber of Commerce would like to offer some comments regarding the proposed updates to ordinances related to the Missoula City Cemetery.

First it is necessary to restate the Chamber's objection to the Missoula City Cemetery entering into the business of selling monuments. There are currently multiple private businesses in Missoula who service this market. There is not a compelling reason for the city to get involved in this industry and take business from tax-paying businesses that contribute to the local economy.

As the Chamber has stated in a previous letter, the revenue generated through the selling of monuments at the cemetery will not offset the losses to the local economy from these businesses having to close or decrease their staff.

One of the primary reasons that has been given for the cemetery entering into monument sales is a lack of compliance with cemetery ordinances. While it can be frustrating to see those violations, the ordinances already provide a method for resolution. The vendor must return, fix the violation and have the work signed off by cemetery staff. Another option would be for the cemetery director and board to examine previous changes to ordinances that may have made compliance more difficult/costly. Perhaps reversing any increase in violations is as simple as adjusting an ordinance to more closely fit realities on the grounds.

The ordinances give the cemetery and its board sole discretion over policies and decisions with the cemetery. This creates a conflict of interest when competing with outside monument businesses. It puts the cemetery director in a position of being able to give its in-house monument business an advantage (beyond just taxpayer-subsidized pricing) over the private sector. Variance requests, acceptability of craftsmanship and work timelines are all controlled by the cemetery director and the board. Without removing cemetery oversight from the director and board, there's simply no way to remove this conflict of interest. It would be better for all involved to abandon the plan to sell monuments and keep the cemetery staff focused on maintenance and care of the cemetery grounds.

Small businesses should get support from their local government, not competition.

That said, there are several areas of concern within the proposed ordinance updates that need to be addressed.

The first is the issue of liability. During the Parks and Conservation Committee meeting on June 7, the committee directed the city attorney to examine clarification on language regarding who is responsible for liability for monuments once they are delivered to the city for setting. The ordinances, as written, do not specify the city will be liable for damage to monuments during the setting process. In fact, section 12.44.170 specifically states that the cemetery does not assume any responsibility or liability for monuments erected on the cemetery grounds. This needs to be amended if the cemetery is going to move forward with its plan to require all monuments be placed by staff. If a monument is damaged after an outside vendor delivers it, the cemetery should be liable for the costs of repair or replacement. Cemetery Director Regan indicated that was how it is currently handled but having it clarified in the ordinances would be the best policy.



As it is the monument companies that are dealing with customers directly, it would be best for them to be allowed to set monuments they have sold. This ensures that a product they sell is installed the way it was described at the time of sale.

A second issue that exists in the ordinances is the multiple paragraphs delineating the Cemetery Director and Board as the body establishing the rules and determining the acceptability of work for outside vendors.

The cemetery's current plans to move into both the placement of all monuments and the sale of new monuments, creates a conflict of interest as explained above. It's easy to see a case where, in an effort to improve revenue from monument sales, the board denies variance requests by outside vendors and approves variances from in-house sales. It would be equally damaging to see outside vendors forced to rework monuments while in-house sales were deemed acceptable.

At the very least, the updated ordinances should contain an appeal process that allows outside vendors to challenge ordinance "violations" as well as denied variance requests to a third party. This would provide a check on potential abuses that would financially benefit the cemetery's monument sales. Ideally the updated ordinances would provide a way to eliminate the conflict of interest they currently create.

A third area the Chamber would like to see addressed falls on the proposed fee schedule. In the line item "Monument Sales and Service" is the note, "Monuments will be sold using outside monument company."

The city cemetery is funded primarily through taxpayer dollars. For that reason, it would make sense that money spent for materials that can be sourced locally, should be. This keeps taxpayer dollars within the local economy and benefits residents through jobs and tax revenue. Having a "buy local" policy for monument materials would ensure that taxpayer dollars continue to benefit taxpayers in Missoula.

In conclusion, the Missoula Area Chamber of Commerce believes the best outcome would be for the Missoula City Cemetery to abandon plans for selling monuments to consumers and continue to let the private sector meet that need. This benefits the community by contributing to the local economy and by providing jobs.

If the city chooses to move forward with plans to allow monument sales at the cemetery, the Chamber would prefer to see the ordinances amended to provide a more level playing field – free of conflicts of interest – to ensure private sector businesses can compete fairly with a taxpayer subsidized entity.

Sincerely,

A handwritten signature in black ink, appearing to read "Clint B.", written over a horizontal line.

Clint Burson
Director of Government Affairs