

**RESPECT FOR THE DEAD AND
RELIEF FOR THE BUDGET:
CAN PRIVATIZATION IMPROVE
HOPE CEMETERY?**

**Report No. 04-05
June 3, 2004**

Worcester Regional Research Bureau

*“And yet, for glory—whence could I have won a nobler,
Than by giving burial to mine own brother?”*
—Antigone, from Sophocles’ *Antigone*

*“Who builds stronger than a mason, a shipwright, or a carpenter?
A grave maker—his homes last till doomsday.”*
—a gravedigger, from Shakespeare’s *Hamlet*

*“Hope Cemetery is maintained below basic standards The community has been
‘conditioned’ to the conditions of Hope Cemetery through the years.”*
—Parks Commissioner, from a Report to Worcester City Council, 2003

“I’m not sure this is a business we should remain in for the long term.”
—Mayor of Worcester on Hope Cemetery, July 2003 Telegram & Gazette

Executive Summary

Based on an examination of Hope Cemetery budgets and reports to City Council, and a comparison with cemeteries in other cities, the Research Bureau found the following:

- A private contractor could provide higher quality service for fewer dollars than the City operation at Hope Cemetery. In FY01, the last year the City provided standard quality maintenance, it cost the taxpayers over \$100,000 more than the estimated costs of a contract for the service.
- A private contractor will be able to provide cemetery management and maintenance services more efficiently than the current City operation due to lower salary and health insurance costs and the unrestricted ability to use seasonal labor.
- Hope Cemetery’s largest area of inefficiency is in salaries. In FY01, the cemetery paid \$10,000 more per employee and in FY03 the cemetery paid \$14,000 more per employee than the average of 10 other cemeteries surveyed.
- A performance-based contract for the care of Hope Cemetery would include specific performance objectives, and the contractor would be rewarded or penalized based on performance.

Introduction

Discussions of Hope Cemetery in recent years have often focused on budgetary issues (and this one will also). But Worcester’s cemetery has come to be known for substandard service and maintenance, which should be a genuine cause for public concern and City action. Possible avenues for City action are the subject of this report.

Since 1990, the Research Bureau and some city leaders have on a number of occasions recommended privatizing Hope Cemetery or parts of the cemetery operation. Recently, the City Council has begun to examine the possibility of privatizing the cemetery. The Research Bureau is following up our earlier reports as well as recent reports by the Commissioner of Parks, Recreation and Cemetery. We will examine the reasons to consider privatization, compare Hope Cemetery with similar municipal and private cemeteries in the area, and estimate the costs and benefits of privatizing the cemetery.

Kinds of privatization

Privatization of Hope Cemetery can occur through an outright sale (a private buyer purchases the cemetery from the City and proceeds to operate it as an independent business), or through a contract for services (the City pays a vendor to provide certain services to the cemetery, i.e. maintenance and management).¹ Both of these possibilities will be considered in this report. However, we will focus on the prospects for contracting out the operation and management of the cemetery.

Why privatize?

The decision to privatize is often pushed when budgets are tight. However, there are other reasons to privatize, and the City should be clear about its objectives with a privatization plan. Some of the possible aims of privatization are listed here:²

- Reduce the cost of government
- Increase the efficiency and productivity of a department
- Improve quality of a good or service
- Make a service more responsive to the public
- Generate necessary funds for capital improvements
- Generate revenues (by selling assets and collecting tax revenues after the sale)
- Bring in special skills
- Eliminate a service not appropriate for municipal government

Hope Cemetery and Privatization

In the case of Hope Cemetery, City officials have cited budget pressure as their primary reason for considering privatization, but concerns about efficiency and quality are also important to the City Council and the public. In 1990, the City Manager argued that without privatization, the budget for other city departments would have to be cut by \$250,000. Instead, the cemetery was merged with the department of parks and recreation. In 1998, a *Telegram* editorial called for privatizing Hope Cemetery as a potential source of savings. In 1996, 1999, 2003, and again this year, the Research Bureau recommended that the City consider privatizing the cemetery to improve the City's budget outlook.³ In August 2002, the City Council requested a report on the possibility of privatizing Hope Cemetery in the face of budget troubles. That request has been repeated and more seriously investigated this year as the City faces another tight budget.

The public's concerns about the Cemetery center on the quality and consistency of operation more than on the City's budget troubles. Foot-tall grass and a generally derelict appearance led to calls for improved cemetery maintenance in the summer of 2003. The Commissioner of Parks, Recreation and Hope Cemetery has described the condition of the cemetery as substandard.⁴ This year, just as grass has begun to grow, there are obvious signs of neglect. Grass over a foot tall stands around many monuments, indicating that weed trimming was not completed (and had not been done for several weeks) before winter arrived. In addition, the cemetery is littered with toppled monuments.

¹ Privatization can also take the shape of a franchise arrangement (a private vendor leases the cemetery from the City and is entitled to earnings that can be made from the operation); however, this option is unlikely to be adopted since the cemetery must be run as a nonprofit organization.

² List derived in part from: Savas, E.S. *Privatization and Public-Private Partnerships*, (New York: Chatham House Publishers, 2000).

³ Research Bureau Reports: *The FY04 Budget: Did Worcester Make the Tough Choices?* Report No. 04-01, *Tough Choices for Tough Times: Worcester's FY04 Budget*. Report No. 03-02, *Observations on the City Managers FY00 Budget*. Report No. 99-4. *Worcester's Finances Problematic for 97* Report No. 96-4.

⁴ Commissioner of Parks Recreation and Cemetery Reports to City Council, November 18, 2003, January 27, 2004.

In response to complaints about the poor condition of the cemetery in the summer of 2003, the Mayor suggested that a private operator for the cemetery might be sought and later suggested that the City should get out of the cemetery business.⁵ One reason that Worcester is in the cemetery business in 2004 is that the Massachusetts General Laws, Chapter 114, Section 10, requires towns to “provide a place for burials of persons dying within its limits.” According to the City Solicitor, the City should be able to meet the requirements of the law through a contract or through a deed restriction at the time of a sale. The Solicitor’s office is currently completing a detailed report on the legal issues regarding a sale of the cemetery.⁶

1) Will privatizing Hope Cemetery make the operation more efficient?

Privatization should improve the efficiency of Hope Cemetery for three primary reasons: 1) a private vendor will be able to employ temporary laborers whenever necessary, bringing personnel costs down significantly, 2) a private vendor will be free from the restrictions of municipal employee union contracts including the high costs of health insurance, and 3) a private vendor will not face budget cuts in difficult fiscal years.⁷ In 2001, the Cemetery had additional resources, hired temporary employees, and had one of its better years in terms of maintenance. In 2003, after budget cuts and layoffs, the Cemetery was repeatedly criticized in the press for poor conditions. When considering the following data, it is important to acknowledge that in 2001 the cemetery was maintained in better condition than in 2003. The costs associated with those two years are different and so were the levels of service provided. We compare both the City’s substandard year, 2003, and its near-standard year, 2001, with the average cost of running the other cemeteries and an estimate of contract costs for operating Hope Cemetery.

Personnel Costs Do other cemeteries operate their facilities more efficiently? Our investigation suggests that they do. Below we compare the salary expenditures per acre, per interment, and per employee at other municipal and private cemeteries.

Figure 1

Cemetery comparison	FY03 Salaries	Total Employees*	Salary costs per employee	acres	Employees per acre	Salary per acre	Interments per year	Salary per interment
Bedford VA	\$155,200	6	\$25,867	40	0.150	\$3,880	100	\$1,552
Brockton	\$250,000	10	\$25,000	170	0.059	\$1,471	300	\$833
Cambridge	\$252,890	15	\$16,859	60	0.250	\$4,215	425	\$595
Fall River	\$277,000	15	\$18,467	132	0.114	\$2,098	175	\$1,583
Lynn	\$600,000	7	\$85,714	160	0.044	\$3,750	500	\$1,200
Madison WI	\$600,000	11	\$54,545	140	0.079	\$4,286	300	\$2,000
New Bedford	\$590,000	27	\$21,852	175	0.154	\$3,371	368	\$1,603
Rochester NY	\$1,400,000	39	\$35,897	350	0.111	\$4,000	900	\$1,556
Quincy	\$513,000	17	\$30,176	75	0.227	\$6,840	600	\$855
St. John's Cemetery	\$800,000	24	\$33,333	170	0.141	\$4,706	1000	\$800
10 Cemetery Average	\$543,809	17	\$34,771	147	0.133	\$3,862	467	\$1,258
Hope Cemetery FY03	\$444,574	9	\$49,397	144	0.063	\$3,087	334	\$1,331
Difference FY03			\$14,626		-0.070	-\$774		\$73
Hope Cemetery FY01	\$651,837	14	\$46,560	144	0.097	\$4,527	391	\$1,667
Difference FY 01			\$11,789		-\$0.04	\$665		\$409
* Hope Cemetery numbers are actual salary expenditures from FY03 and FY01 (not adjusted for inflation). Numbers from other cemeteries are from FY03 budgets.								
Source: City of Worcester Department of Parks and Recreation, St. John's Cemetery								
Prepared by: Worcester Regional Research Bureau								

⁵ *Telegram & Gazette* stories: Nick Kotsopoulos, “Private company may run cemetery” Januray 18, 1990; Nick Kotsopoulos, “Budget cuts hit grounds maintenance,” August 19, 2002; “Future of Hope Cemetery weighed,” August 22, 2002; “Relatives fight weeds, grass at cemetery,” July 5, 2003; “Worcester should get out of the cemetery business,” July 20, 2003; Editorial, “Budget challenge: finding new ways to save,” May 4, 1998; Bronislaus B. Kush, “Cemetery losing face,” August 5, 2003.

⁶ The law applies to both cities and towns (MGL c. 4 sec. 7).

⁷ A contractor may use unionized labor, but it is not a requirement as it is for the City.

Figure 1 reveals that in both FY01 and FY03, Worcester employed fewer people per acre than other cemeteries but paid more per employee than the other cemeteries. In FY03, after layoffs and budget cuts, the cemetery had lower salary costs per acre than FY01, but still had much higher per-employee salary costs than other cemeteries. In FY03 the City paid \$774 less per acre, \$73 more per interment and \$14,625 more per employee than the average of the 10 cemeteries included here. Figure 2 shows the per-acre and per-interment differences in salary obligations for Hope Cemetery in FY01 and FY03 and the average of 10 other active cemeteries in FY03.⁸ Per-interments costs are an indicator of the productivity of the cemetery. Low per-interment costs suggest that the cemetery achieves high productivity from its employees. None of these measures, however, is an indicator of the quality of the maintenance. It is important to note that these are salary numbers only and do not include the costs of health benefits (see figure 4 and the discussion following for consideration of health benefits).

Figure 2

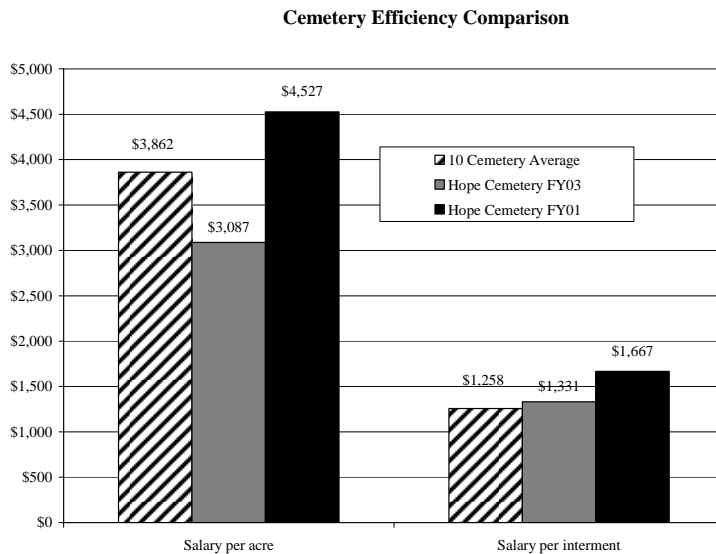
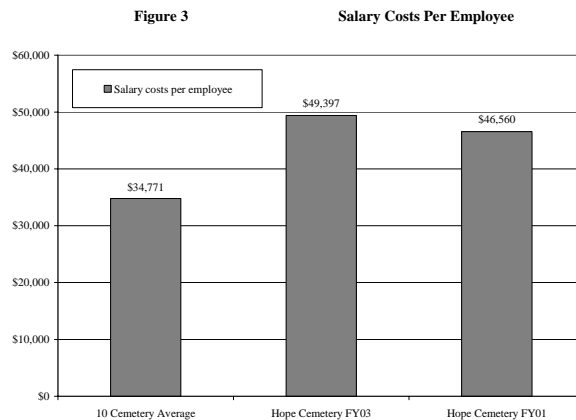


Figure 3 shows the difference in salary expenditures per employee.⁹ In FY03, Worcester paid over \$14,000 more *per employee* than other cemeteries. In FY01, when the cemetery employed some temporary laborers, the City paid over \$10,000 more per employee. The dollar amount does not provide a complete picture; it is also important to consider the quality of the product produced or service provided. While Hope Cemetery is described by its own management as being in “triage” condition, a visit to St. John’s in Worcester, for instance, will reveal a cemetery in a better state of maintenance. Worcester’s higher salary costs do not appear to be generating better service.



⁸An active cemetery is open for new interments, as opposed a closed cemetery which has no room for new interments. Closed cemeteries require only grounds maintenance.

⁹ The FY01 data includes the labor transferred from other divisions of Parks to work in the cemetery (40% of forestry regular time as well as cemetery and forestry overtime and a small amount of parks overtime). Source: Commissioner of Parks and Recreation Report to City Council, November 18, 2003.

Most cemeteries have seasonal employees, and some of the larger cemeteries (Rochester, NY, and St. John's in Worcester) have more than half of their labor force consisting of seasonal employees. Less expensive seasonal labor helps bring overall personnel costs down and increases the number of laborers available during the more challenging spring and summer months. Due to budget constraints and labor opposition to the use of temporary labor in 2001, Hope Cemetery employed no seasonal employees in FY03. In 2001, besides the limited use of temporary employees, other Parks Department tasks were suspended and workers reassigned temporarily to the Cemetery to meet the maintenance needs. Although transferred workers, like temporary workers, may need extra training, they come with a much steeper price tag than part-time labor. The City bears the burden of this inefficiency in two ways: the employees are removed from their regular positions, and they are paid much higher salaries (and benefits) than temporaries would be paid for the work that they are doing (as well as overtime wages in many cases).

Budget cuts, the opposition to temporary labor from the union,¹⁰ and the labor-intensive nature of the work were cited by the Commissioner of the department as reasons for the current inefficient organization.¹¹ The collective bargaining agreement includes work rules and regulations that do not apply to non-unionized cemeteries. Also, a private contractor is immune from City hiring rules. For instance, in FY03, two (of nine) cemetery workers were out on workers' compensation. These employees could not be replaced with temporary employees due to a lack of funding and a City hiring freeze. A private contractor would not be free from workers' compensation claims but would have the flexibility to hire replacement workers as needed.

Also, Hope Cemetery is not able to use unsupervised volunteers or pay outside vendors to do additional work at the Cemetery. The Friends of Hope Cemetery offered to pay a landscaper and a forestry company to clear an area of the cemetery of tree overgrowth and brush, but the City refused the offer and performed the task internally at nearly twice the cost. Private contractors would not be bound by these constraints.

Immunity from Budget Cuts

Some of the current problems at Hope Cemetery can be traced to its erratic history of municipal funding. Comparing FY01 and FY03 provides a small example of these swings. In the early 90's, the cemetery had 30 employees. Today it has eight. Recent budget cuts have hit the cemetery more severely than other parts of the Parks department. A private vendor would have a guaranteed contract amount, making it much more difficult for the City to cut the budget for cemetery services during the term of the contract. Immunizing the Cemetery from the vagaries of the budget should allow a more consistent level of maintenance and service.

With improved personnel costs, greater freedom over operations and schedules, and immunity from changes in the city budget, private management of Hope Cemetery can produce a more efficiently run, higher quality operation than the current City organization.

¹⁰ The collective bargaining agreement does not prevent the use of temporary labor. However, in 2001, when temporary labor was used, the Cemetery faced multiple grievances regarding the way in which the temporaries were employed. This year, the City and the union reached a settlement agreement before the temporary laborers were hired that lays ground rules for the use of temporary labor in the cemetery, including the following: temporary employees must be supervised by union members, they cannot operate "rated equipment" (heavy machinery), temporaries cannot work overtime, temporaries may perform tasks such as mowing, weed whacking, mulching, cleaning leaves, emptying trash and sweeping.

¹¹ The Commissioner of Parks explained that one worker with a large deck mower can cut large swaths of grass in open park in an hour, while multiple workers have to work for many hours to cover the same amount of ground while working around the monuments in the cemetery.

2) Will privatizing Hope Cemetery generate savings for the City in the short or long term?

Actual and Avoidable Costs

The above analysis suggests that a private vendor would be able to do the cemetery work more efficiently, but that does not mean that the City will therefore save money. In order to save money through contracting out for a service, the City must cut the costs that were previously associated with the now-private service. If the cemetery was privatized, but all cemetery personnel were transferred to other departments, the City would not save money. We will compare the estimated costs of a private contract with the savings the City would realize by eliminating cemetery positions and some overhead costs. The estimated cost of a private contract is based on the averages above (Figure 1) and conversations with cemetery industry experts.¹² In cooperation with the Parks, Recreation, and Cemetery Department we have examined the full costs of operating Hope Cemetery. To guide this comparison we have relied on the Massachusetts Department of Revenue guidebook, *Costing Municipal Services: Workbook and Case Study* (January, 2003).¹³ This guide highlights the distinction between the actual costs of providing a service (how much the city spends to provide a given service) and the avoidable costs (how much of that cost could be eliminated if the service were no longer provided by the City). We will present both actual and avoidable costs below.

Figure 4 illustrates the difference in total costs required for a private vendor compared with the total costs for the City operation. This table illustrates the increased efficiency that would be realized through a private contractor. The following also includes the costs of health insurance. The City pays 87% to 90% of employee health insurance costs, while the state and many private employers pay 75% or less. The City’s benefit is for individual or family coverage. Often, private employers require employees to cover a larger percentage of family coverage.

Figure 4
Actual Cost comparison

	Contract Costs Vs. Actual City Costs FY03 and FY01		
	Estimated Contract Costs: for Standard Maintenance*	City Actual Cost FY01 near- standard Maintenance	City Actual Cost FY03: sub-standard Maintenance
Salary (and health insurance) total	\$530,000	\$737,536	\$534,575
Materials and other costs**	\$130,000	\$170,000	\$170,000
Contract Reserve***	\$140,000	\$0	\$0
Total	\$800,000	\$907,536	\$704,575
Difference		(\$107,536)	\$95,425

*Estimated contract cost includes 6 interment workers (1 foreman), 7 maintenance laborers (1 head laborer), 1 cemetery manager, 1 support staff.

**Materials includes the City's debt service payment on the administration building, \$50,000 per year.

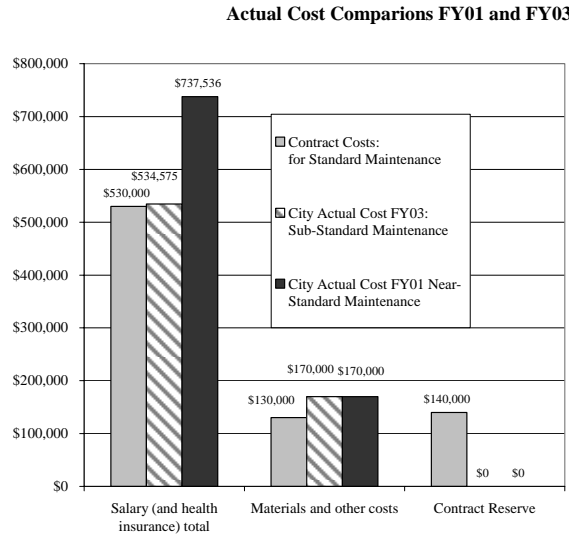
*** Contract reserve is the vendor charge for overhead, contingencies, and profit.

¹² \$800,000 for a contract is the estimate used by the Commissioner of Parks and Recreation in his report to City Council. Our estimate was arrived at separately but reached approximately the same figure.

¹³ A complete full-cost analysis as described in the Department of Revenue guidebook is beyond the scope of this report. We also relied on The Reason Public Policy Institute’s *How-to Guide No.14 on Private vs. In-House Cost comparison*, March 1993 and *How-to Guide No. 17 on Performance Based Contracting*, May 1997. A complete full cost accounting would include the percentage cost of all overhead personnel (a percentage of the HR office costs and a percentage of the City Manager’s office costs, etc.). Also a true full cost accounting would include all capital equipment and its depreciation. Here we have included vehicle maintenance, but not all capital equipment depreciation. The debt service on the cemetery’s major capital facility, the administration building, is included in the materials and other costs section.

Figure 4 shows the estimated costs of a contract would be \$107,000 less than the actual costs of the City operation in FY01 (when maintenance was near-standard) and \$95,000 more than the costs of the City operation in FY03 (when maintenance was sub-standard). Figure 5 shows a comparison of the contract compared with City costs for each area of costs in both FY01 and FY03.¹⁴

Figure 5



It is unlikely, however, that the City would be able to cut all of the costs which are currently associated with the cemetery. In order to get a realistic picture of the potential savings or costs that might result from privatization, we compare the costs of the contract with the “avoidable costs” of the City operation. This includes the costs that the City could eliminate once it contracts out the service. This estimate assumes that all current cemetery employees (9) would be laid off or absorbed by the private contractor.¹⁵ A substantial portion of the FY01 costs of operating the cemetery were in other parks divisions (primarily forestry), and those divisions would not likely be cut even if the cemetery were privatized. In FY03, there was very little use of forestry personnel in the cemetery. The following chart (Figure 6) shows that the contract plus the remaining City expenses would leave \$103,000 in remaining cemetery-related costs in addition to the cost of the contract, increasing the City’s total costs \$198,000 over FY03 (This is slightly under the City’s total costs for standard maintenance in FY01).

Figure 6

Contract Costs Vs. Avoidable City Costs		
	Contract Costs	City Avoidable Cost (based on FY03)
Salary total	\$530,000	\$500,000
Materials and other costs	\$130,000	\$101,000
Contract reserve	\$140,000	\$0
Total	\$800,000	\$601,000
Remaining City Costs in addition to Contract costs		\$103,575

Additional cost of contract is due to the costs of employees from other departments who work in the cemetery, debt service for administration building, and other remaining materials costs. Assumes current cemetery employees (9) would be laid off or absorbed by the private contractor.

¹⁴ FY01 numbers are not adjusted for inflation.

¹⁵ The City could reduce its payroll through attrition, allowing City employees to remain on the payroll until they choose to leave and eliminating the position once the employee has left.

The City’s increased overall cost shown in Figure 6 is due to the expense of the remaining employees who are not directly associated with the cemetery, but worked there in FY03, the administration building and other materials and maintenance costs that will remain even if a contractor takes over the cemetery operation. There would be net savings to the City, if the cemetery had paid for standard cemetery maintenance in FY03 as was done in FY01.

Partially Private Operation?

The above analysis assumes that the entire operation of the cemetery would be privatized through a contract. Other possibilities for the city to consider are contracting out only the grounds maintenance portion of the cemetery and keeping management and interments in-house, or retaining a couple of key employees to manage the cemetery and supervise grave location¹⁶ while allowing a private vendor to perform interments and maintain the cemetery. In a report to City Council, the Commissioner of Parks explained that interments at Hope Cemetery require “a great deal of experience, knowledge, instinct and acumen to ensure that an interment was/is in the exact location, orientation, and depth as prescribed and as required, as well as the location, orientation and type of monumentation allowed.”¹⁷ One cemetery care company requires that the cemetery locate graves even if they have a contract to perform the interments. The maintenance of the cemetery generates the most complaints in difficult years and is therefore worthy of consideration for privatization on its own. Landscaping contractors may be prepared to bid on such a contract that does not require interments and grave location, expanding the field of potential competitors.

Can the cemetery generate more revenue?

Revenues and lot sales have been declining at the cemetery in recent years; lot sales have fallen 15-20% each of the last three years (\$74,269 in FY01 to \$50,646 in FY03). Improved conditions at the cemetery should lead to additional revenue from increased use of the cemetery. Substandard care slows sales, which decreases revenues, which puts additional pressure on the City budget to increase funds for maintenance. Improved maintenance should reverse this trend; in addition, the cemetery could increase revenues by increasing prices, aggressively marketing pre-need lot sales, and developing spaces for mausoleums. Below is a comparison of Hope Cemetery grave and burial prices with those of other area cemeteries. Figure 7 various categories of pricing at the surrounding cemeteries and figure 8 shows a comparison of prices for single lots and burials. All cemeteries are required by law to place a percentage of their revenues from lot sales into a perpetual care trust fund, the interest from which is to be used to maintain the cemetery’s appearance.

Figure 7

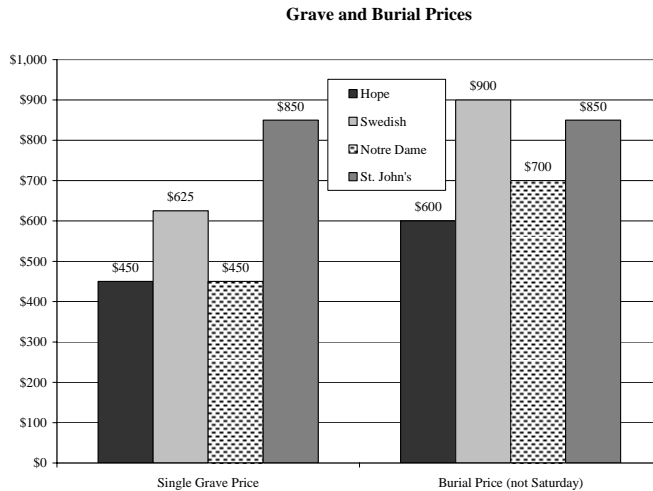
	Hope	Swedish	Notre Dame	St. Johns	Average	How much Cheaper is Hope?*	
						\$	%
Grave Costs							
Single	\$450	\$625	\$450	\$850	\$642	\$192	30%
Double	\$870	\$1,570	\$1,300	\$1,800	\$1,557	\$687	44%
4-Grave	\$1,650	\$2,490	\$2,600	\$4,000	\$3,030	\$1,380	46%
Burial Charges							
Open	\$600	\$900	\$700	\$850	\$817	\$217	27%
Saturday	\$750	\$1,175	\$1,000	\$1,150	\$1,108	\$358	32%
Welfare	\$450	\$500	\$500	\$500	\$500	\$50	10%

* Difference between Hope cemetery charges and the average of the other area cemeteries

¹⁶ Grave location is the process of determining exactly where a grave will be placed; it requires correct identification of the location of previous graves and new interments.

¹⁷ Commissioner of Parks and Recreation, Michael O’Brien. November 14, 2003 report to City Council.

Figure 8



The above indicates that Hope Cemetery charges lower prices than other area cemeteries. All of the cemeteries provide discounts for those who cannot afford the full price burials.

Other cemetery innovations could also be considered for the cemetery. Cremations represent a growing percentage of the burials at Hope Cemetery (currently 10% and increasing) and elsewhere, and the cemetery could look to expand its options for that market, perhaps with a columbarium.¹⁸ Also, mausoleums could be placed in featured locations of the cemetery. Such improvements will not sell, of course, if the cemetery is not well-maintained. Finally, the cemetery, once maintained properly, should pursue pre-need lot sales as is done in other cemeteries.

3) Will privatization guarantee improved quality and consistency at the Cemetery? Only with Competition and a Performance-Based Contract

Using FY01 and FY03 as models, this analysis shows that a well-maintained cemetery under private management would cost less than a well-maintained cemetery under City management. In addition, if the contractor fails to meet expectations, penalties could be assessed. Realizing the benefits of privatization will require that the City craft a solid performance-based contract which sets out specific, measurable goals. One cemetery maintenance company, Merendino Cemetery Care, evaluates its employees' performance weekly based on several key indicators. Those employees are then graded based on their performance and coached to improve their efficiency. Similar key indicators could be established for a cemetery contract. Further, the contract payments could be related to the performance of the cemetery. If the cemetery has more interments in a year, then the contractor is paid a higher amount. This could create a cushion for the City if higher prices bring sales down after privatizing.

Contracting out for this kind of work is not unprecedented in the City. It has a contract for grounds maintenance at the Green Hill Municipal Golf Course. We will examine the City's current maintenance contract for the Golf Course to see if it meets the standards for performance-based

¹⁸ A columbarium is an above-ground memorial for cremation remains. This option should be examined carefully before proceeding, as it could detract from the higher-value burials at the cemetery and be detrimental to the cemetery's revenue stream.

contracts. Below are guidelines for writing a performance-based contract: Define ends not means, include performance incentives and penalties, and monitor and measure performance.

- *Define outcomes, not methods: Performance contracts spell out the desired end result expected of the contract, but the manner in which the work is to be performed is left to the contractor's discretion. Contractors are given as much freedom as possible in figuring out how to best meet the contract's performance objectives.*¹⁹

The Green Hill Golf Course contract uses vague terms to define the expected outcomes of the contract: “the golf course will be maintained in a first class, professional manner;” “proposed improvements must be completed in an expedient manner;” “It is the contractor’s responsibility to upkeep the entire golf course and clubhouse parking lot in a professional and satisfactory manner;” “The Green surrounds shall be maintained according to best golf course upkeep practices.” These are not clear performance expectations and they are not measurable. However, there are areas where the current contract gives very specific indication of the expected outcomes: “Roughs shall be maintained at a height of 1 ½” and a maximum height not to exceed 2 ½”.²⁰ Clear statements of outcomes like this are rare, however. Without them, there is the potential for confusion and conflict between the City and the contractor. In addition, the uncertainty of contract expectations may drive bidders away from the project.

The Green Hill Golf Course contract does not allow the contractor discretion over the means to employ. It is restrictive in the areas of personnel, equipment, and work schedule. The contract includes specific qualifications for the Superintendent and Assistant Superintendent of the golf course, requiring degrees in turf management for both positions. The contract also specifies the numbers and kinds of equipment that a contractor must own or lease to win the bid, including 43 items ranging from “Turf King Mowers” to a “weed whacker.”²¹

- *Include Incentives and Penalties: Incentive-based contracts shift much of the risk onto the contractor, who is rewarded for productivity improvement and penalized for poor performance or rising costs*

The Green Hill Golf Course contract includes no incentives or penalties based on performance, and such features are generally rare in City contracts. There is no clear incentive/penalty system for various areas of the contract.

- *Monitor and Measure Performance: The monitoring plan defines precisely what a government must do to guarantee that the contractor's performance is in accordance with contract performance standards. Different services require different types and levels of monitoring. For highly visible services that directly affect citizens such as snow removal and garbage pick up, poor service will be exposed through citizen complaints.*

The Green Hill Golf Course contract leaves monitoring and enforcement methods vague, as many requirements of the contract are simply subject to the discretion of the head golf pro or the

¹⁹ Definitions of the essentials areas of a performance-based contract are from Reason Public Policy Institute. *How To Guide No. 17*. May 1997.

²⁰ Bid No. CR-2339-C9 City of Worcester Purchasing Department.

²¹ State law requires that City bids be given to the lowest qualified bidder, hence it is necessary for the City to include sufficient qualifications to prevent incompetent bidders from winning contracts; however, this can be done without excessive restrictions regarding personnel and equipment. The contract requires demonstrated experience in the field and extensive references.

Commissioner of Parks and Recreation. Consistent monitoring is made easier with measurable objectives (e.g. if the contract states that grass should not exceed 2” in length, monitoring could include unannounced grass measurements).

Competition and Contract Publicity

In order for the contract to generate the greatest degree of savings and efficiency possible, there must be multiple bidders. The Green Hill Golf Course provides a negative example in this respect. In the most recent contract bid process, according to the Commissioner of Parks and Recreation, the current contractor brought two bids and was prepared to submit the lower one if there were competitors. There weren't, and the contractor submitted the higher bid. The City should publicize bids widely in mainstream media and appropriate trade journals. Relying on the legal notices in the newspaper is not sufficient publicity for a management project of the size of either the Golf Course or Hope Cemetery. There are out-of-state companies that would consider bidding on a management contract for Hope Cemetery. Some cities allow municipal departments to bid against private contractors, creating a competitive environment for both the City and the private contractor.

Cemetery for sale?

In the summer of 2003, the Mayor of Worcester questioned the City ownership of the cemetery: “I’m not sure [the cemetery business] is one that we should remain in for the long-term.” One option for the City to remove itself from the business is to sell the Cemetery. The benefits of this model are that the City would be out of the cemetery business, and a private operation, with an interest in attracting customers and staying in business, would have an incentive to maintain the cemetery up to respectable standards. The City would also benefit from the proceeds of the sale. The challenges of selling the cemetery are many.

The City Solicitor is currently working on a report detailing the legal issues regarding a sale of the Cemetery. A few legal obstacles obviously stand in the way of a cemetery sale. As mentioned above the City must meet the legal requirement “to provide a place for burials” which could be accomplished through a contract or a deed restriction in the case of a sale. A sale of the cemetery would have to fulfill the City’s fiduciary responsibility for maintenance of the plots that have been sold. The City has nearly \$2 million in a perpetual care fund, the interest income from which is to be used to maintain the cemetery. This fund would be sold with the cemetery and would still have to be used for that purpose. The City’s liability if the owner of the cemetery failed to manage its assets properly would have to be investigated. Also, the legal requirements regarding trust agreements for funds that are donated to the cemetery would have to be examined. Cemetery sales—even private ones—are not common in Massachusetts, and there are no reported examples of the sale of a municipal cemetery to a private entity. In Massachusetts, cemeteries must be nonprofit companies and cannot be owned together with a funeral home. In other states, it is common for cemeteries and funeral homes to be owned by the same company, and large management firms have grown up around this industry. But such firms are less likely to invest in a nonprofit cemetery that cannot be paired with a funeral home.

Even with these obstacles, if the legal hurdles could be cleared, it is possible that a buyer could be found for the cemetery. However, this raises another potential obstacle to the sale—prices. Even a nonprofit institution would be likely to raise prices at the cemetery in order to generate enough revenue to cover costs and build reserves. Would the community support a cemetery that charged 10-40% more than it currently does in exchange for improved conditions? This is a question that would have to be weighed before a sale of the cemetery is sought. Activity at St. John’s and other area cemeteries suggests that they would accept that tradeoff.

Conclusion: Pros and Cons of Privatization

It is clear from this analysis that the City could have a more efficiently and attractively maintained cemetery by contracting out for maintenance and management. In 2001, when the City used substantial resources to maintain the cemetery at acceptable standards, the costs were much higher than the costs of comparable cemeteries and the estimated costs of privatization. Compared with 2003, privatization will add to the City's budget, but lower salary and benefit costs and the flexible use of seasonal labor will enable private contractors to provide a more efficient operation. While remaining City costs will add to the City's budget, an improved cemetery may generate increased revenues that could offset some of those remaining costs. The City Council and the administration must decide if additional remaining costs and positions formerly associated with the cemetery can be eliminated. The decision to privatize the cemetery will not free the City from responsibility and will require substantial attention and commitment in transition. If the service is contracted out, the City needs to include specific performance measures and a monitoring system in the contract accompanied by incentives for success and penalties for non-performance to ensure continuous high-quality maintenance of the facility.