
HALDIMAND COUNTY

Report FPC-04-2024 Abandoned Cemetery Administration

For Consideration by Council in Committee on April 30, 2024



OBJECTIVE:

To provide information to Council related to cemetery transfer/abandonment administration and management support to assist Council in determining support for the Clearview Township motion.

RECOMMENDATIONS:

1. THAT Report FPC-04-2024 Abandoned Cemetery Administration be received.

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Respectfully submitted: Dan McKinnon, General Manager of Public Works Operations

Approved: Cathy Case, Chief Administrative Officer

EXECUTIVE SUMMARY:

At the January 16, 2024, Council in Committee meeting, Council considered a motion from Clearview Township related to abandoned cemeteries and their desire for amendments to the current legislation, provincial funding, training and technology opportunities. Council directed staff to report back and provide information related to the impact of abandoned cemeteries on Haldimand. The governing legislation for all cemeteries is *The Funeral, Burial and Cremation Services Act, 2002*. Current Haldimand operations are that of a hybrid model, and while methods for funerals and burials evolve, staff continue to look at all available options to support cemetery operations. While the issue of taking over abandoned cemeteries is not at this time a significant risk, the current workload remains a demanding full-time obligation for the dedicated cemetery staff member with support from the Finance division. Staff will continue to report through the annual budget process respecting operations and identify any future needs as they arise.

BACKGROUND:

In December of 2023, the [Municipality of Clearview submitted a motion](#) from its Council seeking support of Haldimand County Council. The motion outlined their concerns with potentially inheriting abandoned cemeteries and the many challenges and costs this process brings. Furthermore, the Clearview motion included a request to the Ministry of Public and Business Service Delivery and the Bereavement Authority of Ontario (BAO) for amendments to the Funeral, Burial and Cremation Services Act, 2002 (FBCSA), as well as the implementation of financial, training and technological aid to assist municipalities.

The concerns and challenges expressed in this report, are not isolated to Clearview. The FBCSA makes it a requirement for any cemetery which is deemed abandoned to be transferred to the Municipality in which the cemetery is geographically located. Several cemeteries that Haldimand County currently operates, were at one time or another, privately operated cemeteries.

Due to the growing maintenance costs, and lack of volunteers or willing operators, cemetery abandonment is an emerging risk, with discussions becoming more common each year. With over 35 privately operated cemeteries in Haldimand County, nearly equal to the number of cemeteries the County currently operates, the potential of future abandonment of these sites may pose many challenges to our administrative and operational capacity and would likely require additional resources to administer.

Haldimand Cemetery Operations

Facilities, Parks, Cemeteries & Forestry Operations (FPCF) is currently responsible for the administration and maintenance of 42 cemeteries throughout Haldimand County. Of these sites, 19 are currently active, with the remaining 23 being inactive (see attachment 2). For clarification, active means a cemetery that is still performing interments, and may or may not still have interment rights available for purchase. Inactive cemeteries are sites where no future burial or interment rights sales will occur. These sites may also be referred to as pioneer cemeteries, or family burial grounds.

For terminology clarification, an inactive cemetery is different than a closed cemetery. By definition under the FBCSA, a closed cemetery or the process of closing a cemetery is when a cemetery (or portion of a cemetery) is repurposed for another use. If there are existing burials in the cemetery, they need to be disinterred (removed) and interred at a new location/cemetery.

Currently, Haldimand County grave openings and closings for full interments are carried out through a third-party contractor at all active cemeteries. All cremation interments, both in-ground and columbarium, are performed by FPCF staff. In 2023, there were 164 interments, which included 105 cremations, and 59 full burials, across 12 County operated sites. As well, there was a total of 112 interment rights transfers (lot sales) across seven (7) sites.

Grass cutting is divided between in-house and contracted services, with County staff responsible for just over 70 acres across 18 cemeteries. Additional maintenance such as marker levelling and raising, garbage collection, small tree/shrub pruning and removal, laneway repairs and ground levelling is performed by FPCF staff. Annual monument restoration and tree pruning, removal and planting are carried out through contracted services. All administrative components of cemetery operations, including but not limited to lot sales, burial arrangements and mark-outs, marker and monument approval, genealogy searches, and yearly reporting to the BAO, are carried out by one full-time member of County staff. Some of the financial administration involved with cemeteries, and care and maintenance funds is handled by the County's Finance Division.

ANALYSIS:

An abandoned cemetery has been formally declared abandoned by the processes set out in the FBCSA by a judge of the Superior Court of Justice (SCJ). When this has occurred, the municipality in which the cemetery is geographically located becomes the owner of the cemetery with all the rights and obligations concerning the cemetery and the assets, trust fund and trust accounts.

The application for abandonment can be brought forward to the SCJ if the cemetery owner cannot be found or is unknown, is no longer able to maintain it, or is not a licensed operator and there is no licensed operator for the cemetery. The application to abandon the cemetery can be made by the Municipality, the owner or operator of the cemetery, or the registrar. If the circumstances permit, the Municipality may voluntarily take over a cemetery to avoid the formal abandonment process and subsequent application and legal fees.

In contrast, the Street Cemetery is not considered to be an abandoned cemetery, since the site was never formally abandoned through the mechanisms set out in the FBCSA. Street Cemetery is an

unlicensed cemetery that was transferred over to Haldimand County due to its historical and cultural significance.

Currently, FPCF has one full-time employee dedicated to the day-to-day management and operation of cemetery services. The current inventory of cemeteries has begun to create administrative and operational demand which often exceeds the workload capabilities of a single employee. Recently, there have been discussions of one private cemetery being abandoned by its current operators, as well as speculation that two others are considering the option. Additional cemeteries transferred to the County will begin to exceed the administrative and operational capacity of one employee. If this should happen, staff will report back to Council through the budget process to consider options.

Administrative Responsibilities

Public Register

As a requirement under the FBCSA, a cemetery operator is required to keep and make available a public register, which includes such information as interment rights holders, records of rights transferred and names and locations of those who have been interred in the cemeteries. In the circumstance of the County taking over a private cemetery, there is a heavy reliance on the records kept by the previous operators to keep and provide an accurate public register. For ease of obtaining this information, records will also need to be input into the County's cemetery software.

By-laws

As a requirement of the BAO and FBCSA, Haldimand County Cemeteries are operated pursuant to our cemetery by-laws. These by-laws outline the rules and regulations of all cemetery related matters, including but not limited to interments, memorialization, site capacities, and care and planting. Incorporating more cemeteries under our operation presents the challenge of different rules and regulations having to be enforced from one cemetery to the next. Trying to enforce one general by-law, while honouring previous commitments the cemetery may have related to lot sales and interment occupancies creates issues with consistency of enforcement, and would require staff to be more versed not only in our current cemetery by-laws but also in the rules of these unique and diverse cemeteries and sections.

Staffing

Despite the use of contractors for some aspects of the day-to-day operation of Haldimand's cemeteries, there is still the administration component to consider. Cemetery staff are responsible for meeting with families for all interment rights sales and burial arrangements, reviewing monument orders for compliance with cemetery by-laws, filling out and collecting all legally required documentation, conducting rights transfers, staking out interment and memorial locations, inputting information into cemetery software and submitting monthly invoices for finance. Staff, from both FPCF and Finance, are also responsible for semi-annual reporting of interments and lot sales to the BAO. An increased number of cemeteries will create further demand on the County.

There also becomes a requirement for staff to have increased knowledge and understanding of various cemeteries. As mentioned under by-laws, there is also the issue of the physical differences from location to location. Plot layouts and configurations, lot sizes, lot groupings, monument layout and location, pinned or unpinned sections, vary from one cemetery to the next, and knowing each of these sites is vital to the day-to-day operations. Bringing on more sites with increasingly different physical requirements adds continuous demand on staff to ensure everything is laid out correctly.

Operational Responsibilities

General Maintenance

The simplest of activities like grass cutting, require more attention to detail and time from staff or contractors, to ensure not only the proper respect is given to these sites, but also to avoid damage to markers, monuments and gardens scattered throughout the grounds. Due to frequent excavation and backfill of soil in cemeteries, the grounds require continuous levelling and reseeded. Ground settling also requires continuous raising and releveling of cemetery markers.

Monument restoration and treatment is a large cost associated with cemetery maintenance, but also one of the most vital for ensuring safety. Over time, cemetery monuments will tend to lean and pivot as the foundations which support them, heave or crumble. This creates a risk to the health and safety of any worker or visitor who may be around these monuments. Under the FBCSA monuments that pose a risk to health and safety require preventative maintenance, which could range from simply laying the monument down to doing a full repair of the foundation, base and tablet. Associated with this is the challenge of identifying at-risk markers. The more cemeteries the County operates and the more our current sites expand, it will require greater effort to identify at-risk monuments on a regular basis.

Interments

In certain circumstances, the County could be placed in a position that requires taking over the operation of an active cemetery. In this case, the County would be required to honour all outstanding interment rights. Performing burials in an unfamiliar cemetery creates a heavy reliance on records provided by the previous operators. It may also lead to issues in cemetery lot capacities if the cemetery was previously operated with a higher or lower site capacity than the County allows. As well, active cemeteries will only lead to increased interments each year, requiring more administrative and operational demand.

Selling Interment Rights

One of the decisions the County would face when taking over a cemetery is whether or not to continue to sell interment rights. The municipality is not required to continue to sell burial lots, even if there are some still available. Continuing to sell lots, creates higher operational and administrative workloads. At the same time, however, choosing not to do so, limits the county's ability to recuperate costs of upkeeping the cemetery. County cemeteries generate revenue from three streams; interment rights sales, burials, and marker/monument installation. These revenue streams are vital when attempting to achieve financial sustainability. A portion of lot interment rights sales typically includes care and maintenance fees that are placed into a dedicated fund and used for perpetual care of the plot and associated aspects. Financial sustainability can be jeopardized if a cemetery has been transferred to the County without a properly managed care and maintenance fund. These funds are intended for the sole purpose of maintaining cemeteries in perpetuity and are essential for preserving the sites with respect and dignity. If the fund is not sufficient, the care and maintenance costs will fall to the municipality taking over ownership.

Options

Once a cemetery has been declared abandoned by the SCJ the municipality must assume responsibility, however, the options for the municipality in terms of operation and maintenance are limited. It becomes the County's responsibility to maintain these sites and ensure they are safe, accessible and dignified. Depending on the status and location of the cemetery, the County may have options on how it is maintained, how it is operated and options for additional revenue streams.

Contracted vs County Staff

Each additional cemetery would have to be evaluated to decide the ideal approach for regular maintenance. As discussed, grass-cutting at cemeteries is either performed by County staff or hired contractors. To determine what's required for any given site, the size and location of the property will need to be reviewed to see what the best option is. Standards for maintenance at active and inactive cemeteries are the same. The County must ensure all cemeteries are maintained to a safe and respectable standard.

The County could consider the long-term option of moving certain contracted elements of cemetery operations in-house to be performed by staff. The County could explore having full burials performed in-house at the larger, central cemeteries while continuing to contract out the smaller rural cemeteries. This would allow the County to have cost certainty with respect to undertaking burials from one year to the next and update the price list accordingly to match.

Selling Interments rights

If a cemetery which has been transferred to the County has pre-existing lots that may be sold, the County can choose to discontinue the sale of new lots, or can choose to continue selling lots and operating it as an active cemetery. While the latter would add to the operational and administrative workload, it would also allow the cemetery to generate revenue and contributions to the care and maintenance fund.

Exploring alternative interment options (scattering grounds, columbariums and site expansions)

If a cemetery which has been transferred to the County does not have any remaining lots to be sold or does not have room for expansion of new lots, then it may be in the best interest to explore alternative options if the County wishes to continue operating it as an active cemetery. This could include things such as columbaria and scattering grounds. These have generally low maintenance costs in relation to the potential revenue they can provide, while also taking up less space. A columbarium comes in varying sizes however those the County has used typically occupy the same space as a standard burial lot (with a capacity of four urns per niche under our by-laws) while being able to hold up to 128 urns in total. Scattering grounds provide a designated area for scattering cremated remains, naturally allowing them to rest directly in, or on the earth.

Evaluate cemetery service fees

It is often recommended by organizations such as the BAO or the Ontario Association of Cemetery and Funeral Professionals (OACFP) that to ensure the longevity of a cemetery, fees for products and services need to be evaluated. Increasing fees helps balance the rising operational costs each year. Furthermore, raising fees for purchasing cemetery interment rights, increases the amount the County deposits into the care and maintenance fund for future use.

The motion sent to Haldimand from Clearview Township is asking for support in requesting that the province take on the responsibility of abandoned cemeteries due to the long-term costs associated with this service and the property arbitrarily becoming a part of municipal operations. Haldimand currently operates 42 cemeteries, many of which were abandoned and arbitrarily became the responsibility of the County at various points in time. Therefore, over the years, costs to operate and administer cemeteries would have increased, considering that many of the assumed cemeteries continue to be operated as active, with lot sales and interments. If future abandoned cemeteries continue to be turned over to Haldimand the costs are likely to continue growing.

After considering the information in this report and the impact cemeteries have on the overall County budget, if Council wishes to support the Clearview motion to request financial, training and technology support from the province, it should pass a recommendation to do so. If not, it should receive the report as information.

Going forward, staff will build into their work plan, an analysis of the lots available, existing interment rights, level of activity and associated costs for each Haldimand County cemetery. Staff will report back to Council to consider a long-term plan for cemetery operations.

FINANCIAL/LEGAL IMPLICATIONS:

Future financial implications for the management and administration of cemeteries are unknown as there are numerous variables with the undertaking of cemeteries (acreage, care and maintenance fund, and previous administration of the cemetery). Current operations and administration of cemeteries are included in existing Capital and Operating budgets. Cemetery resources (administration and operations) will need to be reviewed and improved to manage additional sites.

As shown below, the budgeted operating costs have increased slightly over the past three years for cemeteries. It is anticipated that taking on additional cemeteries will increase this cost further, however, the municipality does not have a choice when a cemetery is declared abandoned and essentially downloaded to the County. It is noteworthy to mention that cemetery fees are reviewed and increased annually (typically 3%) during the County's annual user fee review.

	2022			2023*			2024				
	Cemetery	Total FPCF	% Cemetery Allocation	Cemetery	Total FPCF	% Cemetery Allocation	Cemetery	Total FPCF	% Cemetery Allocation	Total County	% Cemetery Allocation
Operating	\$384,370	\$10,407,750	3.69%	\$396,870	\$10,632,350	3.73%	\$451,590	\$10,808,210	4.18%	\$86,097,640	0.52%
Capital	\$47,000	\$1,980,370	2.37%	\$378,000	\$6,374,690	5.93%	\$39,000	\$2,157,100	1.81%		
Totals	\$431,370	\$12,388,120		\$774,870	\$17,007,040		\$490,590	\$12,965,310			

*Increase in 2023 Capital due to Columbarium Initiative

STAKEHOLDER IMPACTS:

None.

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

REFERENCES:

1. [Resolution from the Township of Clearview Staff Report](#)

ATTACHMENTS:

1. Cemeteries By-Law
2. Haldimand County Maintained Cemeteries
3. Clearview Staff Report LS-032-2023