



Staff Report

To: Mayor and Council

From: Sasha Helmkey, Clerk/Director of Legislative Services

Date: December 11, 2023

Subject: Report # LS-032-2023 – Cemetery Transfer/Abandonment Administration & Management Support

Recommendation

Be It Resolved that Council of the Township of Clearview hereby receives Report LS-032-2023 (Cemetery Transfer/Abandonment Administration & Management Support) dated December 11, 2023; and,

Whereas under the Funeral, Burial and Cremation Services Act, 2002 (FBCSA), when a cemetery is declared abandoned by a judge of the Superior Court Justice, the local municipality within whose geographic boundaries the land of the cemetery is located, becomes the owner of the cemetery with all the rights and obligations in respect of the cemetery and the assets, trust funds and trust accounts related to it that the previous owner or operator possessed;

And Whereas over the last decade, there has been an increase in the number of churches and local cemetery boards initiating processes to transfer ownership or abandon their owned and operated cemeteries to the local municipality due to such issues as high maintenance costs, inaccuracy of records, lack of financial and human resources to effectively operate and maintain the cemetery, increased regulatory processes regarding training, selling of interment rights, financial operation of the care and maintenance fund, etc.;

And Whereas municipalities experience the same issues and pressures that churches and local boards experience with the operation and maintenance of cemeteries within its jurisdiction, and additional transfers of cemetery lands only compound the burden on municipal taxpayers;

And Whereas cemeteries are important infrastructure where the reasonable costs for interment rights, burials, monument foundations, corner stones and administration charges do not sufficiently support the general operation of cemeteries;

And Whereas the interest earned from the care and maintenance fund(s) of a cemetery do not provide adequate funding to maintain the cemetery with the rising costs of lawn and turf maintenance contracts and monument restoration;

Now Therefore Be It Resolved that Council of the Township of Clearview requests that the Province through the Ministry of Public and Business Service Delivery and the Bereavement Authority of Ontario (BAO) consider the following to assist municipalities in this growing concern of cemetery transfers:

- Amend the Funeral, Burial and Cremation Services Act, 2002 (FBCSA), to have the Province, through the BAO, identified as the default owner and operator of a cemetery when it is abandoned;
- Provide annual funding (based on the number of cemeteries a municipality owns and operates) to municipalities to assist with the maintenance of inactive and active cemeteries;
- Provide free training opportunities for municipalities regarding cemetery administration; and,
- Investigate and support the design of universal cemetery software for use by municipal cemetery operators that can be offered at an affordable cost.

And that this resolution be circulated to the Hon. Todd McCarthy, Ministry of Public and Business Service Delivery, Jim Cassimatis, BAO Interim CEO/Registrar, MPP Brian Saunderson and all Ontario municipalities.

Background

Under the Funeral, Burial and Cremation Services Act, 2002 (FBCSA), when a cemetery is declared abandoned by a judge of the Superior Court Justice, the local municipality within whose geographic boundaries the land of the cemetery is located, becomes the owner of the cemetery with all the rights and obligations in respect of the cemetery and the assets, trust funds and trust accounts related to it that the previous owner or operator possessed.

Over the last decade there appears to be a trend where cemeteries in Ontario are being transferred, whether through abandonment or a mutually agreed upon transfer, to the care and control of municipalities. This is often seen when there is a breakdown in existing cemetery boards and/or when churches cease operations. For many existing private cemetery boards their board members and volunteers are aging and are unable to assist with the operations and maintenance of the cemetery any longer. Finding new members proves to be difficult for these boards to continue. In addition to aging board members, there are other issues that are contributing to the increase in cemetery transfers:

- high maintenance costs
- inaccuracy of records
- lack of financial and human resources to effectively operate and maintain the cemetery

- increased regulatory processes that require ongoing training for selling of interment rights, and the financial operation of the care and maintenance fund, etc.

Township Owned Cemeteries

The Township of Clearview currently owns and operates nine (9) cemeteries within its geographic boundaries. Out of these nine cemeteries, four (4) are considered active meaning that there are still interment rights to be sold, or burials to take place. Below is a chart outlining these cemeteries and their status:

| Cemetery Name | Address | Status |
|---------------------------------------|--|---------------|
| Batteau Hill Cemetery | 2670 County Road 124, Duntroon | Inactive |
| Bethel Union Cemetery | 2249 Creemore Avenue, New Lowell | Inactive |
| Dunedin Union Cemetery | 9 Turkeyroost Lane, Dunedin | Active |
| Duntroon Pioneer Cemetery | 2870 County Road 124, Duntroon | Inactive |
| Lavender Cemetery | 827103 Mulmur/Nottawasaga Townline, Creemore | Active |
| Old Zion Presbyterian Church Cemetery | 6130 Highway 26, Sunnidale Corners | Inactive |
| Second Line Nottawasaga Cemetery | 2279 County Road 42, Stayner | Active |
| Stayner Union Cemetery | 7661 Highway 26, Stayner | Active |
| Zion Presbyterian Church Cemetery | 12358 County Road 10, Sunnidale Corners | Inactive |

For the Dunedin and Stayner Union Cemetery, the Township looks after the maintenance and burials through a third-party contractor. The maintenance and burials for the Lavender Cemetery are conducted through the Board. For the Second Line Nottawasaga Cemetery all the interment rights have been sold, but there remains one burial to be completed. The cost to maintain an active cemetery is expensive. Although burial costs and the installation of markers, etc. are cost recovery through the purchaser, grounds maintenance is not.

Inactive cemeteries still require consistent grounds maintenance, which includes any monument restoration for health and safety, and record searches for the public register.

Comments and Analysis

When analyzing the number of cemeteries that Clearview Township currently owns and operates, maintenance and administration is a large undertaking. To add any additional cemeteries by way of transfer or abandonment will only compound the issues the Township is already facing. In the past year, the Township has been approached by two separate entities regarding possible cemetery transfers. When a board or cemetery transfers ownership to the municipality, the issues are transferred with it. Municipalities are not immune to the same concerns. It becomes a strain on municipal resources, financially, administratively, and operationally.

Administrative Impact

From an administrative perspective the management of four active cemeteries is both time consuming and complex. No interment is the same, and providing good customer service takes time especially for those making arrangements while also dealing with grief. Administrative tasks include but are not limited to: interment right sales and mapping, burial contracts and scheduling, monument placement, historical record searches, plot and monument staking, fees and charges review, family transfers of interment rights and annual reporting to the Bereavement Authority of Ontario (BAO).

- **Incomplete records**

Often the records accepted by the Township from a dissolved cemetery board or church are incomplete and disorganized. This is no fault of the previous board members, as they are also often operating with limited resources. However, it does make it difficult to manage the cemetery post-transfer when records are sparse. Understanding which plots are occupied and by who is critical to the sound management of a cemetery. Unfortunately, this is not made possible in all cases because of incomplete records. In addition, records received during a transfer usually are maintained under different records management standards and are often organized and named inconsistently. Adaptation to Township records keeping practices takes time.

- **Lack of human resources**

Cemetery management is a highly regulated professional field, with the responsibility of which is often placed on public sector employees who may have limited knowledge of cemeteries in general. With reduced resources within municipalities especially rural ones, the management of cemeteries often becomes a secondary responsibility to another position. There is also a lack of affordable training available for municipal employees who are required to abide by regulations set out by the FBCSA and the BAO.

- **Increased regulatory processes**

Annual reporting requirements of the BAO can be extensive and complex. This includes monitoring the number of interments, the transfers to the Care and Maintenance Fund (C&M), and how the C&M fund can be used. There are also regulations pertaining to maintaining a public register, how sales are to be conducted and strict guidelines on Cemetery By-law approvals, and expansions including the erection of columbaria structures.

- **Inconsistent cemetery regulations**

Cemeteries can have many different regulations related to plot size, number of burials allowed in a given plot, monument size, what types of flowers/shrubs are allowed to be installed near a headstone etc. The transfer of different cemeteries having inconsistent regulations can make it difficult to adapt management practices in order to maintain original cemetery operational standards.

Operational Impact

Similarly, from an operational perspective the grounds maintenance of cemeteries, whether active or inactive, is both time consuming and complex. A key issue when analyzing the maintenance component of cemetery management is the lack of financial resources to support the operation. Cemetery maintenance includes, but is not limited to: grass cutting (whipper snipping around monuments), tree and shrub maintenance, monument and corner stone maintenance, water pipe and washroom monitoring, and general upkeep of cemetery grounds (removal of debris, etc.).

- **High maintenance costs**

As with many services, there are rising costs to contend with. Municipalities have adopted different models to address the maintenance of such, with third party contractors being commonly used or it becomes the responsibility of an internal department such as Parks & Recreation. Regardless the model, the costs have increased significantly over the last decade with equipment purchases/upgrades, insurance requirements for third-party contractors, and the time it takes to cut the grass and whipper snip around monuments. To put it into perspective, the Stayner Union Cemetery with the expansion is 25 acres with monuments to manoeuvre around during ground care. Other considerations for maintenance includes monument restoration and ensuring that they are not deteriorated to the point where they are unsafe. This is important for older cemeteries where restoration hasn't been provided in the past and there are many deteriorating monuments.

- **Cost of cemetery management software**

Cemetery Management Software can help municipalities manage cemetery records, including plot sale contracts, interment rights certificates, and regulatory reporting.

However, these software solutions are often expensive and require a large amount of staff time to implement especially with incomplete data and records. These software solutions range in price from \$5,000 to \$100,000 with annual maintenance costs. This investment in software can be a large budget request and one that would need to be supported from taxation with the limited funds in cemetery general accounts.

- **Inadequate Care and Maintenance funds**

When the Funeral, Burial and Cremation Services Act, 2002 (FBCSA) was enacted, it stipulated that a care and maintenance fund for a cemetery shall be established. A cemetery operator is required to make contributions to the fund from the sale of in-ground graves, crypts, tombs, niches, scattering rights and monument installation. The contribution is prescribed under the FBCSA and differs dependant on the interment type. The idea is that the fund (income earned from the fund - interest) pays for maintenance costs after a cemetery has stopped making sales. In reality, this concept does not produce enough funds to maintain a cemetery. Looking at the Stayner Union Cemetery as an example, for the very basics (grass cutting and whipper snipping) the interest from the care and maintenance fund does not provide enough monies to maintain the cemetery for the 7 months it's required. In addition, the care and maintenance fund is also to be utilized for the stabilization, maintenance and security of markers. Cemeteries are not self funding, and maintenance of such is becoming a larger budget concern.

Support Request

Cemetery transfers and abandonments have been an ongoing concern for Clearview Township for many years. When you look at the large geography of the Township there are many cemeteries within the boundaries that have the potential to be transferred. To gauge the concern of other municipalities on this issue, staff addressed it at a Simcoe County Clerks group discussion. Many neighbouring municipalities expressed that they were dealing with the same issues and have also been approached by different external entities on possible transfers.

As result of the discussion, it was agreed that to assist with the real concerns with transfers and abandonments of cemeteries, it's vital that the Province provide assistance to adequately support this infrastructure. Support can be provided in many different forms, with staff making the following recommendations for the Ministry of Public and Business Service Delivery and the BAO:

- Amend the Funeral, Burial and Cremation Services Act, 2002 (FBCSA), to have the Province, through the BAO, identified as the default owner and operator of a cemetery when it is abandoned;

- Provide annual funding (based on the number of cemeteries a municipality owns and operates) to municipalities to assist with the maintenance of inactive and active cemeteries;
- Provide free training opportunities for municipalities regarding cemetery administration; and,
- Investigate and support the design of universal cemetery software for use by municipal cemetery operators that can be offered at an affordable cost.

There is not one solution to solve all the issues, but at the very least it's important to identify the concerns and have open and real discussions at the provincial level on what support can be provided.

Clearview's Strategic Plan

The above initiative supports the following strategic pillars:

- Governance

Financial Implications

It is difficult to identify an exact dollar amount that can be attributed to a cemetery transfer/abandonment to the municipality. Every transfer is different and depends on a multitude of factors beginning with the cemetery status (active/inactive), acreage, care and maintenance fund (if any), maintenance of records, etc. What is being recommended by staff by way of support from the province is not meant to erase the costs entirely, but rather, to alleviate the financial burden in some capacity.

Report Appendices

Not applicable.

Approvals

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| Submitted by: | Sasha Helmkey, B.A., Dipl. M.A., AOMC, Clerk/Director of Legislative Services |
| Reviewed by: | Krista Pascoe, Deputy Clerk |
| Financial Implications Reviewed by: | Kelly McDonald, Treasurer |
| Approved by: | John Ferguson, CAO |