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Item No. 7
Halifax Regional Council
June 13, 2017

TO: Mayor Savage and Members of Halifax Regional Council
Original Signed by Director

SUBMITTED BY: Brad Anguish, Director, Parks, Recreation & Communities

DATE: May 25, 2017

SUBJECT: Taking Possession of 5 Cemeteries

INFORMATION REPORT

ORIGIN

September 22, 2015 Motion of Regional Council:

MOVED by Councillor Hendsbee, seconded by Councillor Outhit
THAT Halifax Regional Council ask for a staff report to explore the possibility of HRM taking possession to own, operate and maintain the following 5 Cemeteries:

- Clam Harbour Cemetery, 3651 Clam Harbour Road, PID 00604157
- St James Cemetery, 111 West Jeddore Road, Head of Jeddore, PID 00608679
- Oyster Pond Cemetery, 78 Old Trunk Road, PID 00561241
- Lower Ship Harbour Cemetery, 904 West Ship Harbour Road, PID 00606046
- Owl's Head Cemetery, 2592 West Ship Harbour Road, PID 00555300 MOTION PUT AND PASSED.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter ("HRM Charter"), subsections 61(1) and (5):

- (1) The Municipality may acquire and own property granted or conveyed to the Municipality either absolutely or in trust for a public or charitable purpose".
- (5) The Municipality may... (a) acquire property, including property outside the Municipality, that the Municipality requires for its purposes or for the use of the public.

Cemetery and Funeral Services Regulations, subsection 27 (2) states:

In the case of a cemetery which was operated by an organization other than a municipality, the organization which operated the cemetery may enter into a contract or agreement with the municipality in which the cemetery is located or with a municipality served by the cemetery, such that the municipality contracts or agrees to provide adequate maintenance for the cemetery. In such case, the responsibility of the municipality will be the same as though the cemetery were municipally operated.

Administrative Order 2016-007-OP *Acquisition of Cemeteries Administrative Order*

BACKGROUND

On September 22, 2015, Regional Council passed a motion asking for a staff report to explore the possibility of HRM taking possession of the following five cemeteries to own, operate and maintain:

- Clam Harbour Cemetery, 3651 Clam Harbour Road, PID 00604157
- St James Cemetery, 111 West Jeddore Road, Head of Jeddore, PID 00608679
- Oyster Pond Cemetery, 78 Old Trunk Road, PID 00561241
- Lower Ship Harbour Cemetery, 904 West Ship Harbour Road, PID 00606046
- Owl's Head Cemetery, 2592 West Ship Harbour Road, PID 00555300

At the same meeting, Regional Council passed a motion requesting a staff report to develop policy and implement a process for the acceptance and adoption of old, abandoned or orphan cemeteries, and/or from any congregation and/or community groups that want to convey and transfer their cemeteries over to the Municipality for the purposes of ongoing maintenance and perpetual care. The report was to include a potential inventory and potential budget implications.

On August 2, 2016, Regional Council received a staff report that responded to the request to develop policy and implement a process for accepting and adopting old, abandoned or orphan cemeteries from congregation and/or community groups. Given that municipal operation of cemeteries previously operated by other organizations is enabled through provincial regulations, and given that abandoned cemeteries are likely to become dangerous or unsightly properties, staff recommended that an Administrative Order (AO) be developed to ensure that all requests for municipal operation of cemeteries are evaluated under consistent criteria and align with municipal policies. Council agreed and directed staff to draft an AO defining the process to consider old, abandoned or orphan cemeteries as outlined in the staff report dated July 19, 2016.

On October 4, 2016, Regional Council adopted Administrative Order 2016-007-OP, *Acquisition of Cemeteries Administrative Order*, which sets out the process for the Municipality to consider acquiring a cemetery.

DISCUSSION

The process for the Municipality to consider acquiring a cemetery is outlined in Administrative Order 2016-007-OP, *Acquisition of Cemeteries Administrative Order* ("AO"). The AO requires that requests be submitted to the Clerk's Office and requires that the applicant:

- agree to convey its ownership interest to the Municipality for one (\$1.00) dollar, including conveying any easements that may be required to access the cemetery;
- be in compliance with applicable federal, provincial and municipal enactments;
- agree to transfer to the Municipality the perpetual care fund (if a fund exists in accordance with Provincial enactment), including
 - making necessary amendments to the trust agreement to enable the transfer, and
 - receiving the approval of the provincial Registrar of Cemetery and Funeral Services for the transfer;
- agree to transfer any funds for pre-arranged funeral plans to the Municipality; and
- provide the Municipality with supporting documents respecting the cemetery, including
 - a list of the organization's rules, regulations and by-laws pertaining to the cemetery,
 - audited financial statements,
 - information respecting any pre-arranged funeral plans,
 - a survey of the land of the cemetery,
 - a copy of any subdivision plan the organization may have for the cemetery,
 - a cemetery plan respecting the burials or cremations, and
 - a copy of any agreement the cemetery may have with a third party, such as a landscape company.

On March 22, 2017, staff received correspondence from Bob McArel, Co-chair of the Property Committee, representing the United Church of Canada, Halifax Presbytery, advising that they do not plan to make application now to have HRM own and operate any of their cemeteries, including the five cemeteries in question. It was noted that they may make a submission at a future date.

Should the group wish to make application in future, the AO enables them the opportunity through submission of a formal request to the Clerk's Office.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

COMMUNITY ENGAGEMENT

Staff has been in contact with representatives of the United Church of Canada, Halifax Presbytery.

ATTACHMENTS

None

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

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