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Halifax Regional Council
January 13, 2004

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: _____
Mike Labrecque, Director, Real Property and Asset Management

DATE: January 7, 2004

SUBJECT: By-Law C-200 - Respecting Cemeteries

INFORMATION REPORT

ORIGIN

On October 21, 2003, Halifax Regional Council approved a motion requesting a staff report with respect to amendments to By-Law Number C-200 cited as the Cemeteries By-Law, paying particular attention to those sections regarding lot transfer and lot conveyance

BACKGROUND

The Halifax Regional Municipality owns, operates and maintains seven municipal cemeteries. These cemeteries are: Mount Hermon Cemetery, Saint Paul's Cemetery, Dartmouth Common (Park Avenue) Cemetery and Saint Peter's Cemetery, all of the former City of Dartmouth, and Camphill Cemetery, Fairview Lawn Cemetery and Saint Paul's Cemetery (Old Burying Grounds), all of the former City of Halifax. The Old Burying Ground is an historical site and burials are no longer permitted there. These cemeteries were governed and/or regulated by a number of By-Laws, Regulations, and Ordinances of the former municipal units. By-Law C-200 was approved by Halifax Regional Council on October 26, 1999, and allows for the operation and administration of HRM Cemeteries in a coordinated and standardized manner. The By-Law also made provision to set fees for acquiring burial rights and other services related to HRM Cemeteries by enacting Administrative Order Number 20 which was passed by Council on January 25, 2000. While it is not HRM's purpose to be in direct competition with the private sector, staff did survey the industry to gauge current fees and pricing within the industry as a matter of research when drafting Administrative Order Number 20.

DISCUSSION

“Councillor Cunningham noted that he had spoken to a gentlemen who purchased a cemetery lot approximately 25 years ago and now would like to dispose of it. According to the By-Law he must sell it back to HRM at the purchase price 25 years ago. Councillor Cunningham stated that HRM would be selling the lot for a much higher price and consideration should be given to paying the owner the same price.”

Generally, cemeteries within the private sector sell burial lots where the purchaser becomes the lot owner. HRM Cemeteries differ in that the land is not sold, as it is considered a “public asset”. The owner acquires a “right of use” only and not ownership of the land. Since there is no “ownership interest” of the land when acquiring a burial lot from the Municipality, there should not be an expectation of “accrued appreciation” if there is a reconveyance back to HRM. This is the rationale behind Section 9 of the existing By-Law where HRM may accept reconveyance of any lot back to the Cemetery with the stipulation that the price not exceed the original price received by the Municipality. Great effort was made to prevent a speculative market for HRM burial lots when drafting By-Law C-200. It is not HRM’s purpose to be in direct competition with the private sector and every precaution must be made to prevent a speculative market for HRM burial lots.

When speaking with staff, Councillor Cunningham also requested information regarding monuments and the Last Post Columbarium.

The intent in drafting Section 12 (Memorials) of By-Law C-200, was to permit one monument on each single grave lot, as well as establish minimum acceptable dimensions and materials (i.e. granite, cut stone or marble) However, the wording of the final draft that went before Council reads “*one monument only shall be permitted on each lot, regardless of the size of the lot or the number of burials permitted therein*” . Staff frequently find themselves dealing with owners who have acquired the rights to a lot that provides for a number of single grave spaces. Over time as loved ones are interred, there is a reasonable expectation that a monument will be permitted to mark individual graves and yet to allow this would be a violation of Section 12 as it is written.

Over the past four years staff has found themselves in conflict with the By-Law by permitting markers to be placed on graves as described above. Having consulted with HRM Legal Services, the best resolve is to amend the By-Law to reflect the original intent of permitting one monument for each single grave lot.

Bringing the newly installed Last Post Columbarium on line requires an amendment to both the By-Law and respective Administrative Order as this structure did not exist (nor was its construction in the planning stage) when By-Law C-200 was written and approved by Council. Staff anticipate bringing an amendment to Section 12 and proposing an additional Section to address The Last Post Columbarium to Council as one package early in the spring of 2004.

BUDGET IMPLICATIONS

There are no budget implications.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

N/A

ATTACHMENTS

N/A

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Brian Phalen, Superintendent, Parks and Open Spaces 490-4885