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Item No. 11.1.10

Halifax Regional Council
August 4, 2009
August 11, 2009
September 8, 2009

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:

A handwritten signature in cursive script, appearing to read "Dan English".

Dan English, Chief Administrative Officer

A handwritten signature in cursive script, appearing to read "Wayne Anstey".

Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: June 24, 2009

SUBJECT: **Approval of By-Law C-701, an Amendment to By-Law C-700,
Respecting Cemeteries**

ORIGIN

This report originates from staff.

RECOMMENDATION

It is recommended that Council approve in principle, the adoption of By-Law C-701, respecting amendments to By-law C-700 (the Cemeteries By-law), and also give notice of motion to begin the formal adoption process.

BACKGROUND

The current Cemetery By-Law C-700 contains an error in Section 12 subsection (7). Current wording for a marker reflects “size of 5 inches x 14 inches”. Actual marker dimensions should be “size of 50 inches x 14 inches”.

In addition, at the time of passing the current Cemetery By-Law C-700, Council discussion reflected a desire to have staff review the fairness of Section 7 subsection (5) (iv) that speaks to the purchase price the Municipality will pay for a lot that is sold back to the Municipality, regardless of time elapsed. The proposed amendment to the Cemetery By-Law calls for lots sold back to the Municipality to be purchased at the current municipal value less 20%.

DISCUSSION

The above amendments to By-Law C-700 are necessary in order to correct an error in maximum base size permitted on a two grave lot. The correct size / lot dimensions were included in the drafting of By-Law C-700. However, it appears that there was a simple key-stroke error that was not detected while preparing the final document for sign-off.

The proposed amendment also strikes a balance in discouraging the purchase of lots for the purposes of return speculation, and ensuring a fair and equitable price is paid to the long time holder of an unused lot that is deemed surplus.

All previously repealed Cemetery By-laws stipulate that burial lots shall only be purchased from the Municipality. Persons who purchase lots from the Municipality do not acquire ownership interest in the land, but do acquire rights that include: reasonable access, use of the lot for human burial, and the right to erect a memorial or plaque subject to the specifications of the By-Law. Purchasers are also deemed to include their heirs, successors and assigns and their personal representatives.

Because purchasers do not acquire ownership interest in the land, lots deemed surplus (unused) by purchasers can only be sold back to the Municipality. Current By-Law language stipulates that all lots sold back to the Municipality will be purchased at the price paid at the time of sale regardless of time elapsed. Fees for cemetery services, including lot fees, are prescribed from time to time by Council through Administrative Order.

Staff recommend that cemetery fees remain in-line with local market value in order to manage and operate HRM cemeteries in a responsible and business like manner. As a result, over the expanse of time lot fees have increased. There have been instances where long time lot owners have come forward to declare an unused lot as surplus and wish to sell the lot back to the Municipality, only to be frustrated at receiving the original purchase price. The proposed amendment to the Cemetery By-Law is in response to Councils desire to have staff review the fairness of the price at which unused or surplus lots are sold back to the Municipality.

As a note pursuant to Administrative Order 32, a public hearing is not required on the enactment or amendment of a By-Law unless specifically directed by Council.

BUDGET IMPLICATIONS

The Cemetery Operations budget reflects revenues from: sale of lots; fees charged for cemetery services ; and, interest from Perpetual Care Trust Accounts. Staff anticipate minimal to no impact on the annual net budgets as lots sold back to the Municipality will be held for the required sixty (60) days and then placed back on the market for sale to the public at current municipal value.

The current single lot price is \$1,100 with the re-purchase price for HRM at \$880. This transaction would generate \$220. However taking into consideration staff time, resources and carrying cost to fulfill this transaction the net effect would be less and ultimately not significant to the operation of this program.

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

There are no recommended alternatives to this course of action.

ATTACHMENTS

Attachment A: Proposed By-Law C-701

Approval of By-Law C-701, an Amendment to By-Law C-700, Respecting Cemeteries
Council Report - 4 - **August 4, 2009**

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax at 490-4208.

Report Prepared by: Brian Phelan, Parks & Open Spaces, Municipal Operations 490-4867



Report Approved by:

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Report Approved by:

Michael Labreque P. Eng. Director, Transportation and Public Works, 490-4855

ATTACHMENT A

**HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER C-701**

BY-LAW RESPECTING AN AMENDMENT TO THE CEMETERIES BY-LAW

Be It Enacted by the Council for the Halifax Regional Municipality that By-Law C-700, the Cemeteries By-Law, be amended as follows:

1. Section 12 subsection (7) is amended by replacing the words “size of 5 inches x 14 inches” with the words “size of 50 inches x 14 inches”.
2. Section 7 subsection (5) clause (iv) is repealed and replaced with the following:
 7. (5) (iv) All lots sold back to the Municipality shall be purchased at the current municipal value for a lot less 20%.

Done and passed by Council on this ____ day of _____, 2009.

MAYOR Peter J. Kelly

MUNICIPAL CLERK