



Staff Report FIN2020-029

Title of Report: FIN2020-029 Cemetery Update Regarding Trustee
Department: Finance
Council Date: November 4, 2020

Recommendation:

Be it resolved that Council receive Staff Report FIN2020-011 for information; and
That Council consider for approval By-law 2020-127, a by-law to enter into an amended agreement with Bethel Community Cemetery; and
That Council consider for approval By-law 2020-128, being a by-law to enter into an amended agreement with Walker Cemetery.

Background:

On December 4, 2019, Council passed the following resolution:

Be it resolved that Council receive Staff Report FIN2019-053 for information; and

That Council agrees to become the Care and Maintenance Trust Fund Trustee, if requested, for cemeteries that operates within its municipal boundaries.

On December 4, 2019, Council received Staff Report FIN2019-058 and agreed to become the Care and Maintenance Trust Fund Trustee of Bethel Community Cemetery, located at 712679 Southgate Srd 71.

On December 18, 2019, Council received Staff Report FIN2019-060 and agreed to become the Care and Maintenance Trust Fund Trustee of Walker Cemetery, located at 085795 Southgate Rd 08.

On June 3, 2020, Council received Staff Report FIN2020-011 and approved By-law 2020-054, being a by-law to enter into an agreement with Bethel Community Cemetery and By-law 2020-055 being a by-law to enter into an agreement with Walker Cemetery.

Staff Comments:

The Care and Maintenance Trust Fund Trustee agreements were executed and the cemetery operators applied to the Bereavement Authority of Ontario for permission to transfer Cemetery Care and Maintenance Trust Funds to the municipality.

On October 16, 2020, the Bereavement Authority provided approval of the transfer of the Walker Cemetery Care and Maintenance funds from TD Canada Trust to the Township of Southgate.

On October 16, 2020, the Bereavement Authority emailed staff and requested clarification of Section 10 of the Bethel Community Cemetery agreement. Section 10 stated currently states the following:

10. That the Trustee shall pay the net income from said Cemetery Care and Maintenance Trust Fund annually to the Operator up to the amount spent by the Operator for care and maintenance during that calendar year as evidenced by a certificate of the Operator; should the Operator not withdraw any or all of the said income to which it is entitled, or should said income be in excess of that covered by the certificate for that particular year, the Trustee shall hold and reinvest the balance, if any, and such balance and the income therefrom shall be available to the Operator for care and maintenance in future years if required

The Bereavement Authority noted that:

"In accordance with the Funeral, Burial and Cremation Services Act, 2002, any earned income on the care and maintenance fund (CMF) that was not used for care and maintenance i.e. surplus income, is required to be redeposited in the CMF.

Please note that once required care and maintenance contributions are deposited in the fund or any earned interest that has not been used for maintenance has been deposited/capitalized in the CMF, the contributions and the surplus interest become part of the capital and cannot be released in the following years. The capital is to hold in the Care and Maintenance Trust Fund in perpetuity.

Staff concurred that Section 10 must be updated to comply with the Funeral, Burial and Cremation Services Act, 2002. Staff provided the following proposed update to Bereavement Authority staff:

10. That the Trustee shall release only current year interest income from said Cemetery Care and Maintenance Trust Fund to the Operator up to the amount spent by the Operator for care and maintenance during that calendar year as evidenced by a certificate of the Operator; should the Operator not withdraw any or all of the said income to which it is entitled, or should said income be in excess of that covered by the certificate for that particular year, the Trustee shall hold and reinvest said income in the Trust Fund and they cannot be released in future years; and

Bereavement Authority staff have confirmed that the proposed update would be sufficient and that an amended agreement with Bethel Community Cemetery containing the updated wording must be provided to them before the transfer of funds can be approved.

Therefore, staff requests that Council consider for approval By-law 2020-127, being a by-law to enter into an agreement with Bethel Community Cemetery with the amended Section 10 wording.

As the Walker Cemetery agreement contains the same Section 10 wording, staff requests that Council consider for approval By-law 2020-128, being a by-law to enter into an agreement with Walker Cemetery with the amended Section 10 wording so that it complies with the Funeral, Burial and Cremation Services Act, 2002.

Financial Implications:

As the transfer has been approved, a new Trust Fund for the Walker Cemetery has been set-up in the records of the municipality and will be reflected in the annual Trust Fund financial statements.

After the transfer has been approved, a new Trust Fund for the Bethel Community Cemetery will be set-up in the records of the municipality and reflected in the annual Trust Fund financial statements.

Staff anticipates the additional administrative burden will be minimal.

Communications & Community Action Plan Impact:

This report has been written and presented to Council in accordance with the Southgate Community Action Plan:

Mission Statement Pillars

- Trusted Government

Themes:

- Municipal Services
- Public Communications

Core Values:

- Integrity
- Stewardship

Concluding Comments:

The Bereavement Authority has provided approval of the transfer of the Walker Cemetery Care and Maintenance funds to the Township of Southgate.

Section 10 of the trust agreement with Bethel Community Cemetery must be updated so that it complies with the Funeral, Burial and Cremation Services Act, 2002 before the Bereavement Authority will approve of the transfer of funds to the Township of Southgate.

As the trust agreement with Walker Cemetery contains the same Section 10 wording, staff recommends that it be updated to comply with the Funeral, Burial and Cremation Services Act, 2002.

Staff requests that Council consider for approval By-law 2020-127, being a by-law to enter into an agreement with Bethel Community Cemetery containing the updated

Section 10 wording and By-law 2020-128, being a by-law to enter into an agreement with Walker Cemetery containing the updated Section 10 wording.

Respectfully Submitted,

Dept. Head: ***Original Signed By***
William Gott, Treasurer

CAO Approval: ***Original Signed By***
Dave Milliner, CAO

Attachments:

None