



Subject: Overholt Cemetery Trust

To: Council

From: Corporate Services Department

Report Number: 2023-211

Meeting Date: November 28, 2023

Recommendation:

That Corporate Services Department Report 2023-211 be received; and

That Council authorize the City Treasurer to complete, execute, and submit a transfer application form to the Bereavement Authority of Ontario (BAO) for the City of Port Colborne to become the trustee of the Overholt Cemetery Care and Maintenance Trust.

Purpose:

The purpose of this report is to seek Council's approval to complete, execute, and submit a transfer application form to the Bereavement Authority of Ontario (BAO) to become the trustee of the Overholt Cemetery Care and Maintenance Trust.

Background:

Part V of the *Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c. 33* outlines that cemetery operators must establish and maintain trust accounts related to the care and maintenance of the cemetery. These trust accounts must be administered by a trustee. In cases where a municipality is the operator, the municipality may act as the trustee for care and maintenance money.

The City of Port Colborne owns and operates Overholt Cemetery in Port Colborne and has done so since August 2012, but staff have recently been made aware that the City is not presently the trustee of the Overholt Cemetery Care and Maintenance Trust account which currently resides with TD Wealth. This report is being brought forward in light of this discovery to begin the process of transferring ownership of the trust to the City.

Discussion:

To consolidate investment accounts and have better control over the trust's assets, staff requested that Overholt Cemetery trust account be transferred to the CIBC Wood Gundy, which is the financial institution where the City holds other long-term investments. Through this request to transfer process, the BAO communicated to staff that the City was not, in fact, the trustee of the Overholt Cemetery care and maintenance trust fund and since the City was not the trustee, the request to transfer the funds was denied.

The BAO shared the following information with staff regarding their decision and the history of the trust agreement:

"The trust agreement for C&M (Care and Maintenance) funds is between the trustees of the Overholt Cemetery in Port Colborne and the Guaranty Trust Company of Canada. In 1993 TD Bank (TD) bought the assets and liabilities of the Central Guaranty Trust Company and Central Guaranty Mortgage Company (the Guaranty Trust Company of Canada had since acquired other institutions and was then known as the Central Guaranty Trust Company).

So, the rights to this trust agreement would have been purchased by TD in 1993. Therefore, since TD is the trustee of the funds, the City of Port Colborne would have to submit a transfer application form to the BAO for the registrar's consent before the transfer of the funds."

With this new information and a continued desire to have better control over the trust's assets, staff are recommending that Council direct the Treasurer to complete, execute, and submit a transfer application form to the BAO to become the trustee of the Overholt Cemetery Care and Maintenance Trust.

Financial Implications:

Currently, the City is not the trustee of the Overholt Cemetery Care and Maintenance Trust. As a result, the City has no control over how these funds are managed. Staff believe that the City should become the trustee of these funds so the City can have control over how the funds are managed.

Public Engagement:

Throughout this process, staff have been communicating with the office of the BAO to ensure that appropriate steps are taken to rightfully assume control over the assets of the Overholt Cemetery Care and Maintenance Trust.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Economic Prosperity
 - Sustainable and Resilient Infrastructure
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Conclusion:

In conclusion, staff recommend that Council authorize the Treasurer to complete, execute, and submit a transfer application form to the BAO for the City of Port Colborne to become the trustee of the Overholt Cemetery Care and Maintenance Trust.

Respectfully submitted,

Adam Pigeau, CPA, CA
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Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.