



PORT COLBORNE

Subject: St Paul Lutheran Cemetery Transfer

To: Council

From: Public Works Department

Report Number: 2025-67

Meeting Date: March 25, 2025

Recommendation:

That Public Works Department Report 2025-67 be received;

That Council accept ownership of the St Paul Lutheran Cemetery located at Lot 18 Concession 3;

That Council authorize the Director of Public Works to complete a survey of the lands required for ownership transfer and update the Cemetery software database for a cost of \$35,000 to be funded from the Cemetery reserve;

That the Director of Public Works be directed to apply the City of Port Colborne cemetery rate structure for the cost of interments to the St Paul Lutheran Cemetery effective immediately; and

That Council authorize the CAO to sign the Transfer to Cemetery Care and Maintenance Trust Fund/Account Information Sheet and the Cemetery Transfer and Acceptance of the Municipality by Mutual Consent forms as required by the Bereavement Authority of Ontario.

Purpose:

In 2024 the St Paul Lutheran Cemetery Board (the Board) contacted City staff to discuss transferring land ownership, administration, and general maintenance of the St Paul Lutheran Cemetery to the City of Port Colborne.

Background:

The St Paul Lutheran Cemetery is located on Third Concession Road adjacent to Overholt Cemetery; a general location map can be found in Appendix A.

The Board provides operational oversight of the cemetery including ground maintenance, and the layout and coordination of internments. They have contacted the City noting their inability to provide services to meet the *Funeral, Burial and Cremation Services Act*.

Discussion:

The City will only be required to take ownership of the Cemetery if the Board applies to the Superior Court Justice to have a judge declare the cemetery abandoned. If the judge declares the cemetery abandoned, the municipality will become the owner and will take over all of the previous owner's cemetery assets, rights, and obligations. If the judge does not declare the cemetery to be abandoned the owner/operator will be required to pay the cost of the proceedings. In all other cases, the Bereavement Authority of Ontario (BAO) has identified that the municipality will be required to pay the cost of the proceedings.

A cemetery owner or operator can apply to the Superior Court of Justice to have a judge declare a cemetery abandoned if its owner:

- cannot be found or is unknown
- is unable to maintain the cemetery
- is not a licensed operator and there is no licensed operator for the cemetery

The Board has presented the rationale for the transfer of ownership being that the owner is unable to operate and maintain the cemetery due to their inability to provide services to meet the *Funeral, Burial and Cremation Services Act* requirements.

St Paul Lutheran Cemetery is currently listed as an Active cemetery, meaning that plots are being sold and internments taking place. An Inactive cemetery would no longer sell internment rights or conduct internments. The physical act of internments dictates whether a cemetery is Active or Inactive.

The Board has indicated that there are available plots that can be sold but is unclear to how many or where specifically they are located. Staff recommend that the cemetery remain an Active Cemetery at this time. As further data is collected, and site work/layout is completed, staff will determine if the cemetery should be classified as Inactive based on the information gathered.

To integrate the St Paul Lutheran Cemetery into the City's digital database, the City will be required to complete a land survey of the existing property lines and plots to verify the information provided by the Board. This survey will be used to transfer ownership of the land to the City. Staff will then manually load the Board's hard copy database into the City's Stone Orchard software for future reference.

As part of the City assuming the role for the St Paul Lutheran Cemetery administration, the City's Cemetery By-law 5840-94-12 will be applied to this site.

Internal Consultations:

The BAO is aware that the St Paul Cemetery Board and City of Port Colborne are in discussion regarding the transfer of the Cemetery.

The City Solicitor has provided comment and agrees with the recommendation to transfer the cemetery to the City of Port Colborne.

Financial Implications

The Board's Care and Maintenance Account balance in \$46,444 as of December 31, 2024. Staff will conduct a full review of the Board's hardcopy documentation to determine what the Care and Maintenance Account balance should be; based on current cemetery operations and knowledge, staff believe this balance is significantly lower than what is required to provide care and maintenance to the cemetery.

Expenses:

- The cost to complete the land transfer agreement and general legal fees will be \$15,000.
- Review and digitization of hardcopy documentation will cost \$15,000.
- New City signage will cost \$5,000.

Staff recommend that the \$35,000 total expense to transfer the cemetery to the City's ownership be funded from the cemetery reserve.

Public Engagement:

Staff will contact cemetery plot owners with updated contact information for the City of Port Colborne. The BAO will be notified of the change in ownership, ensuring its records list the City of Port Colborne for future inquiries.

Strategic Plan Alignment:

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

- Welcoming, Livable, Healthy Community
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Conclusion:

In conclusion, it is recommended that the transfer of land and administration be accepted by the City of Port Colborne due to the circumstances and high probability of a judge declaring the cemetery to be abandoned.

Appendices:

Appendix A – General Location St Paul Lutheran Cemetery

Respectfully submitted,

Curtis Dray
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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.