



## REPORT

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**TO:** Mayor Bonnette and Members of Council

**FROM:** Kevin Okimi, Director of Parks and Open Space

**DATE:** January 5, 2022

**REPORT NO.:** RP-2022-0004

**SUBJECT:** Memorandum of Understanding with the Catholic Cemeteries of the Diocese of Hamilton for Devereaux Cemetery – 12337 17 Side Road

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### RECOMMENDATION:

THAT Report No. RP-2022-0004 dated January 5, 2022 regarding a Memorandum of Understanding with the Catholic Cemeteries of the Diocese of Hamilton the Devereaux Cemetery be received;

AND FURTHER THAT the Mayor and Clerk be authorized to execute the Memorandum of Understanding with the Catholic Cemeteries of the Diocese of Hamilton for the Devereaux Cemetery as outlined in Report RP-2022-0004;

AND FURTHER THAT the Commissioner of Recreation and Parks be authorized to execute future renewals of the Memorandum of Understanding, as outlined in Report RP-2022-0004;

AND FURTHER THAT staff monitor the implementation of the Memorandum of Understanding with the Catholic Cemeteries of the Diocese of Hamilton for the Devereaux Cemetery located at 12337 17 Side Road;

AND FURTHER THAT the Mayor and Clerk be authorized to execute a License Agreement with the Catholic Cemeteries of the Diocese of Hamilton for a public use trail as outlined in Report RP-2022-0004.

## **KEY POINTS:**

The following are key points for consideration with respect to this report:

- In 2013, the Town entered into a Memorandum of Understanding with the Catholic Cemeteries of the Diocese of Hamilton for the creation of a new public cemetery (the Devereaux Cemetery) located within the Holy Redeemer Cemetery at 12337 17 Side Road.
- The Memorandum of Understanding has now expired and staff recommend renewing the Memorandum of Understanding for a twenty-year term.
- Staff further recommend that the Mayor and Clerk be authorized to enter into a License Agreement with the Catholic Cemeteries to permit the construction of a public use trail from Trafalgar Sports Park to the Estates of Black Creek trail system located in the Town open space lands adjacent to Black Creek.

## **BACKGROUND AND DISCUSSION:**

In January of 2013, Council approved Recommendation No. GC-2013-0002 authorizing the Town to enter into a Memorandum of Understanding with the Catholic Cemeteries of the Diocese of Hamilton for the creation of a public cemetery at their property (Holy Redeemer Cemetery) at 12337 17 Side Road (the adjacent property to the west of Trafalgar Sports Park) in lieu of the portion of Trafalgar Sports Park originally designated for a public cemetery. The public cemetery was named the Devereaux Cemetery.

Since 2013, the Diocese has continued operation of the Holy Redeemer Cemetery and the Devereaux Cemetery which is located on the eastern edge of the 17 ha (42 acre) property providing cemetery and burial services to those of a Catholic faith as well as the general public.

Staff is seeking Council approval to renew the Memorandum of Understanding with the Diocese in order secure the continued operation of the Devereaux Cemetery as part of the cemetery lands operated by the Diocese.

### Memorandum of Understanding Renewal

As part of the ongoing provision of cemetery services, the Town is in regular contact with the Catholic Cemeteries as a local provider of end-of-life services. Staff met with Catholic Cemeteries staff in late 2021, to discuss a renewal of the Memorandum of Understanding as well as a potential public trail that would connect from Trafalgar Sports Park to existing trails in Town owned open space lands adjacent to the Estates of Black Creek development.

Town and Catholic Cemeteries staff recognize the benefits of renewing the Memorandum of Understanding in order to document the long-term commitment to the provision of a public cemetery by the Catholic Cemeteries.

Greenwood Cemetery (Georgetown) and Hillcrest Cemetery (Norval) both have limited capacity. A broader range of burial plot options may be provided on the Diocese lands and allows staff to direct potential purchasers to a site located within Georgetown if their requests cannot be accommodated in existing Town cemeteries. Alternatively, residents would have to select from Fairview or Hornby Cemeteries managed by the Town, local private cemeteries operated by Boards of Trustees (E.g. Glen Williams, Churchill) or other private cemeteries in the market areas such as in Guelph or Brampton.

Staff are requesting that the Memorandum of Understanding be renewed for a term of up to 20 years. Staff are further recommending that the Commissioner of Recreation and Parks be authorized to execute future renewals provided that no significant changes to key terms are proposed.

The key terms of the Memorandum of Understanding are as follows:

- The Diocese agrees to designate a portion of their property as a public cemetery to be known as the Devereaux Cemetery. Appendix A shows the limits of the Devereaux Cemetery.
- The Diocese continues to be the owner and operator of the Devereaux Cemetery and administer the sales and operations of the cemetery.
- The Diocese receives all income from the sale of plots and cemetery services provided and is responsible for all reporting requirements in accordance with the *Funeral, Burial and Cremations Services Act, 2002*.
- The Diocese acknowledges that the Town can provide specific cemetery services on a fee for service basis, and both parties agree that should any services be required, a separate service contract will be executed on terms and conditions satisfactory to both parties.
- The term of the Memorandum of Understanding is for up to 20 years (expires on January 1, 2042) and can renewed for an additional terms based on agreement by both parties.
- The Town has no financial obligations as a result of the Memorandum of Understanding.

The scope of services provided by the Diocese includes full capital development, cemetery sales, operation, maintenance and administration. It is expected that the layout of the public portion of the cemetery will be consistent with the master plan submitted by the Catholic Cemeteries and that there will continue to be a range of full interment options currently not available in substantive numbers at Greenwood Cemetery i.e. cremation plots, full burial plots.

Staff feel that with their role in cemetery services in other parts of the Region, the Diocese continues to be a viable option for the delivery of cemetery services in lieu of the Town developing a separate site, especially when the value of land, capital development costs and approval costs are factored into the review. Renewal of the

Memorandum of Understanding is consistent with Council direction and the most viable form of a service delivery contract provided by the Diocese.

### License Agreement for Public Use Trail

In addition to the Memorandum of Understanding, staff are negotiating with the Catholic Cemeteries for the construction of a public use trail that would connect from Trafalgar Sports Park to the trail system in the Town owned open space lands adjacent to Black Creek, that were conveyed to the Town as part of the Estates of Black Creek development. The subdivision approval included provisions for a trail access block to connect from the open space lands to the Holy Redeemer Cemetery, and the trail connection is included in the Town's Active Transportation Master Plan. The proposed trail linkage is shown in Appendix B. The proposed trail would initially be constructed through the undeveloped portions of the cemetery property. In future years as the cemetery continues to develop, the trail location would be adjusted and may include portions of the cemetery driveways.

In order to construct the trail, it is necessary for the Town and the Catholic Cemeteries to enter into a License Agreement for a public use trail, as this is the most common type of agreement for this type of trail arrangement, as it provides flexibility for future modifications that would be more difficult to accommodate through the acquisition of an easement.

The key terms of the License Agreement are as follows:

- The Town can construct and operate a public use trail on the Catholic Cemeteries property (Holy Redeemer and Devereaux Cemeteries).
- The Town is responsible for design, operating and maintenance costs, including enforcement of the Town's trail regulations which will be posted at the trail entrances.
- The term of the license is for 20 years and is automatically renewed for subsequent 5 year terms.
- The Town will maintain the trail to the same level of service as existing Town trails.
- Each party will provide insurance and indemnify the other party for any claims due to each party's actions.
- The Agreement may be terminated if the Town does not fulfill its obligations or makes substantial changes to the Trail Regulations.

Staff recommend that Council authorize the Mayor and Clerk to execute a License Agreement with the Catholic Cemeteries as outlined above.

## **STRATEGIC PLAN ALIGNMENT:**

This report aligns to the Town's Strategic plan recognizing the value to provide responsive, effective municipal government and strong leadership in the effective and efficient delivery of municipal services.

This report also identifies fiscal and corporate management as one of the Town's Strategic priorities.

## **RELATIONSHIP TO CLIMATE CHANGE:**

This report impacts and/or helps address climate change and the Town's resiliency through climate adaptation. The provision of trails improves opportunities for Active Transportation, and reduced reliance on automobiles.

## **PUBLIC ENGAGEMENT:**

Public Engagement was not needed as this report is administrative in nature. Staff provide information as needed to the public to advise of the availability of lots at the new Devereaux Cemetery, and the clear scope of services carried out by the Diocese. The proposed trail was part of the Active Transportation Master Plan which included a comprehensive public consultation program

## **INTERNAL CONSULTATION:**

No Internal consultation was required in the preparation of this report.

## **FINANCIAL IMPLICATIONS:**

This report is administrative in nature and does not have any financial implications. Budget for the proposed trail was approved as part of the 2022 Capital Budget. Staff are currently reviewing the 2016 Cemetery Business Plan to provide an update to Council later in 2022.

Reviewed and approved by,

Warren Harris, Commissioner of Recreation and Parks

Chris Mills, Chief Administrative Officer