

GM29.13.1

From: [Timney, Glen](#)
To: [Government Management Committee](#)
Subject: GM29.13 Friends of Toronto Public Cemeteries v. Mount Pleasant Group of Cemeteries – Report on City's Interest
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Attachments: [Mount Pleasant Group backgrounder.pdf](#)

To Carol Kaustinen;

On behalf of Mount Pleasant Group of Cemeteries we thought it would be helpful to provide members of the Government Management Committee with background information (attached) associated with item GM29.13 Friends of Toronto Public Cemeteries v. Mount Pleasant Group of Cemeteries – Report on City's Interest which comes before the committee on Tuesday July 3rd, 2018.

We trust this information is of assistance and will help the committee in their deliberations.

Sincerely,

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Mount Pleasant Group Backgrounder

May 2018



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1. About Mount Pleasant Group of Cemeteries

- Mount Pleasant Group of Cemeteries (MPG) (originally named The Trustees of Toronto General Burying Grounds) is a non-share capital corporation.
 - Established in 1826, MPG pre-dates the City of Toronto and has been serving the citizens of the Greater Toronto Area (GTA) for almost 200 years.
 - In 1826 only Catholic and Anglican cemeteries existed to service the Town of Muddy York inhabitants (1,500 at the time). If you were not of these two religions deceased persons were buried in farmer's fields.
 - MPG was established as the first non-denominational cemetery, to serve the needs of all residents.
- MPG was created by a Special Act of the Ontario Legislature in 1871 for the explicit purpose of operating a general, non-denominational cemetery:
 - The 1871 statute authorized the ownership of the cemetery land to MPG,
 - The fact that MPG was incorporated by Special Act of the Legislature does not mean that the Province owns MPG or holds an interest in MPG. It was common in the early 1800s for individuals who wanted to create a corporation to petition the Province to pass a Special Act establishing the corporation.
 - This process of incorporation did not give the Province any ownership interest in the corporation or special powers over the corporation.
- Today MPG owns and operates 10 cemeteries (approx. 1,200 acres) within the Greater Toronto Area and continues to fulfill its original mandate to service all faiths and cultures.
- MPG performs approx. 15,000 burial, funeral and cremation services annually. Its cemeteries include:
 - 5 cemeteries within the City of Toronto: Toronto Necropolis, Mount Pleasant Cemetery, Prospect Cemetery, Pine Hills Cemetery, York Cemetery
 - 1 cemetery within the City of Vaughan: Beechwood Cemetery
 - 1 cemetery within the City of Richmond Hill: Elgin Mills Cemetery
 - 1 cemetery within the City of Brampton: Meadowvale Cemetery
 - 1 cemetery within the City of Oshawa: Thornton Cemetery
 - 1 cemetery within the Town of Pickering: Duffin Meadows Cemetery
- Although there is no legislated requirement to do so MPG maintains a high level of transparency within the community by:
 - Publishing its audited financial statements, members of the Board of Directors, senior management and site management on its website,
 - Providing a copy of MPG's Annual Review (which includes annual Audited Financial Statements) to the Mayors and local Councillors of the municipalities in which its cemeteries are located, and through its cemetery offices and website to the community,
 - Publishing MPG's purpose, vision, and values, and Corporate By-laws on its website.
- Throughout Ontario, most cemeteries were established within a rural setting and communities have grown around them. This is the case for all MPG cemeteries.
- As a result, MPG has a history of cooperating with the municipalities in which they are located to facilitate community development. Examples include:
 - Land severances to permit the extension of municipal roads through cemetery properties,

- Perpetual easements to facilitate the extension of storm water management systems cemetery properties,
- Pedestrian easements specific to Mount Pleasant to ensure permanent public access during daylight hours from the Kay Gardner Beltline through the cemetery to the Moore Avenue ravine.
- MPG is a recognized North American industry leader and takes great pride in the role its cemeteries play within its communities:
 - They are a valued green space and home to one of the largest arboretums in Canada,
 - The cemetery by-laws permit and promote passive recreational activities, so they may be enjoyed by its neighbours,
 - It hosts and conducts arboretum tours, history tours, maintains the largest veterans' sections in Canada, and hosts dozens of cultural and Remembrance Day services annually, while providing ongoing support for local hospice and palliative care initiatives.

2. Government Oversight of Cemeteries is a Provincial Responsibility in Ontario

- All cemeteries, crematoriums, funeral homes, and transfer services are regulated by the Funeral Burial and Cremation Services Act, R.S.O 2002 (FBCSA)
- The Province of Ontario established a Delegated Administrative Authority (DAA) in 2016, the Bereavement Authority of Ontario (BAO), to license and oversee all cemetery, crematorium, funeral home and transfer service operations in Ontario and administer the provisions of the FBCSA.

3. MPG Filing Reporting Requirements

- MPG is subject to considerable oversight by provincial regulators and by the Public Guardian and Trustee:
 - The BAO is responsible for licensing and education, has oversight over all trust funds and annually receives detailed financial reports, activity reports, and audited statements,
 - The Public Guardian and Trustee annually receives audited financial statements,
 - The Canada Revenue Agency also receives audited financial statements annually.

4. Types of Cemetery Ownership Licensed in Ontario

- There are over 5,100 licensed cemeteries in Ontario
 - 5% of Ontario’s cemeteries (approx. 250) are categorized as “Commercial” cemeteries (operated by corporations, partnerships, or sole proprietors).
 - 95% of Ontario’s cemeteries (approx. 4,850) are categorized as “Non-Commercial” cemeteries (operated by municipalities, religious or faith-based groups, and non-share corporations:
 - Collectively, Ontario municipalities operate and/or maintain approx. 2,500 cemeteries - 68% of which have been declared abandoned and have become the responsibility of the municipality to maintain in perpetuity in accordance with the FBCSA,
 - Religiously operated cemeteries (e.g. Catholic, Anglican, United, Jewish, Muslim, etc.) operate and/or maintain approx. 1,900 cemeteries - 68% of which are inactive,
 - Trustee/Board operated cemeteries
 - Non-share Corporation operated cemeteries
 - Limited Partnership operated cemeteries
- } comprise approx. 700 cemeteries – 26% of which are inactive.

5. Perpetual Maintenance Responsibility of all Cemeteries in Ontario

- The FBCSA establishes a requirement for all cemeteries to maintain sold interment rights in perpetuity:
 - A percentage of all interment rights purchases (40% of the cost of a land purchase, 20% for a mausoleum crypt, 15% for a columbarium niche) is required to be placed in a Care & Maintenance Fund (C&M Fund),
 - The purpose of the C&M Fund is to generate income for the care and maintenance of the cemetery in perpetuity,
 - Monies deposited into the C&M Fund are not accessible by the cemetery operator and are administered by a Trustee on their behalf,
 - Municipally operated cemeteries are exempt from this requirement and may administer their own C&M Fund investments,
 - Only the investment interest generated from the C&M Fund can be used by the cemetery operator to recover property maintenance costs as defined within the FBCSA.
- All MPG decisions consider “forever” in everything it does in order to fulfill the perpetual maintenance obligations under the FBCSA and its promise and commitment to its rights holders:
 - MPG is proud to have amassed the largest C&M Fund of any cemetery operator in Canada (± \$440 Million) which permits it to fulfill its legislated obligations and to maintain its properties to the highest possible standards.

6. Cemetery Operations Within the City of Toronto

- Historically, the City of Toronto chose not to provide cemetery services to the community. Adequate provision of such services was being fulfilled through the Catholic Diocese, the Anglican Diocese, and MPG (non-denominational).
- Other municipalities (e.g. Oakville, Burlington, Hamilton, Cambridge, Brantford, Kitchener, and Waterloo to name a few) established municipally operated cemeteries to provide a necessary service that was not otherwise being provided.
- Most municipal cemeteries operate at a deficit and are subsidized through the municipality's departmental operating budgets.
- There are over 700 listed cemeteries within the City of Toronto:
 - The City of Toronto has assumed responsibility for and maintains approximately 75 small, inactive cemeteries which were declared abandoned,
 - The City of Toronto is not involved in the ownership and/or operation of any of Toronto's active licenced cemeteries,
 - As all active Toronto cemeteries (Commercial or Non-Commercial alike) do not receive any form of operational funding or subsidy from the City of Toronto they have no requirement to report to the municipality.

7. Requirements of Ontario Cemetery to Report to Municipalities

- Licenced Commercial and Non-Commercial cemetery operators that are not owned and operated by a municipality are not required by legislation to report to a municipality.
- Evidence of municipal development approvals (e.g. Planning Act approvals: e.g. zoning or site plans) are required to be filed with the BAO before the Registrar grants consent to proceed.
- Municipal cemetery operators which own and operate a cemetery within their geographic boundaries are managed by municipal staff who report through various departments to the local municipal council.
- There is a unique circumstance under which a Non-Commercial cemetery operator may be required to report to a municipality:
 - Such a circumstance is when the land on which the cemetery operates has been donated by the municipality to the cemetery operator, or when a municipality provides occasional or on-going funding to the cemetery operator to subsidize its maintenance, operations or development.
 - Woodlawn Cemetery in Guelph would be such an example. The Guelph Cemetery Commission (a not-for-profit, non-share cemetery corporation) was established to serve the non-denominational needs of the community through an equal "partnership" of the municipality, and the local Anglican and United Churches who each purchased 1/3 of the cemetery lands. The City of Guelph continues to provide ongoing funding for operational and maintenance projects.
 - Because of the financial investment made by the municipality (land acquisition and operational subsidy):
 - Woodlawn's corporate cemetery by-laws include a requirement to have two municipally appointed members on the cemetery Board.
 - The cemetery operator is also required to provide a copy of its audited financial statements and discuss its operating budget with the municipality on an annual basis.
- As the lands comprising MPG cemeteries were not donated by the municipality, were acquired without municipal funding, and MPG operations have continued for almost 200 years without any form of government subsidy, MPG is not required to report to the municipalities in which its cemeteries are geographically located.

8. The Current Issue

- A small group of Moore Park residents were opposed to MPG building a new Funeral Centre and updating our crematorium to world class standards at Mount Pleasant Cemetery. City Hall, the Ontario Municipal Board, the Superior Court of Justice, the Court of appeal, the Ministry of the Environment, and the Environmental Review Tribunal all agreed with our right to do so.
- Not happy with the outcomes three Moore Park residents formed a corporation under the name Friends of Toronto Public Cemeteries (FoTPC) with the corporate objects relating solely to challenging MPG. The only disclosed members of this organization are Margot Boyd, Pamela Taylor, and Lorraine Tinsley who were the founding members of the organization. The sole reason for forming FoTPC was to shield them from any personal liability.
- In April 2013 FoTPC filed a Superior Court Application shortly after forming FoTPC. The Hearing dates are scheduled for August 20th and 21st.
- FoTPC have been attempting for years now to garner public support in the hope of influencing government opinion. The two primary issues before the court are whether MPG falls under a charitable definition under Ontario law and whether or not we should be following the process outlined in the Corporations Act for electing our Directors. MPG has remained silent and will not comment publicly on the court case.
- A Special Act created MPG in 1826 authorizing five individual trustees to purchase six acres of land for the purpose of operating a burial ground which was open to all the inhabitants of the town of York, whatever sect or denomination they may be.
- An 1871 Special Act created a corporation and transferred the property previously held by the pre-incorporation trustees to the new corporation.
- Today MPG operates and maintains 10 cemeteries across the GTA totaling 1200 acres, 9 funeral homes, 4 crematoria, and 14 mausoleums. We have approximately 300 permanent and 190 seasonal employees. Except for the original \$300 raised from the public in 1826 (to buy the original 6 acres) MPG has grown to what it is today without and funding, grants, or subsidies from any level of government or any public fundraising.
- MPG was created to operate a cemetery, open to all, in perpetuity. We take that responsibility very seriously and today can say we are recognized as one of the premier operators in all of North America.
- Our Care & Maintenance Trust fund is more than \$400M and is held by our Trustee CIBC Trust and is overseen by our regulator the Bereavement Authority Of Ontario (BAO).
- We have the highest balance per acre of any cemetery in North America which reflects the financial responsibility and stewardship we have maintained for almost 200 years.
- The BAO has confirmed that MPG is entirely compliant under prevailing provincial legislation (the Funeral Burial and Cremation Services Act) and the Registrar will support such a position in written form.
- There has been a lot of misinformation provided through the media and to the public at large the majority of it has been fear mongering and completely untrue.



For more information or any questions please contact:

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