



Hamilton

Office of the City Auditor

Hamilton Municipal Cemeteries Trust Funds Audit



January 19, 2023

**Office of the City Auditor
Nancy Hu, Senior Auditor
Brigitte Minard, Deputy City Auditor
Charles Brown, City Auditor**

Contents

	<u>Paragraph</u>	<u>Page</u>
Executive Summary	1 - 7	3 - 4
Introduction and Background	8 - 13	4 - 6
Audit Objective	14	6
Audit Scope	15	6
• What We Did	16	6 - 7
• How We Did It	17	7 - 8
• What the Scope Did Not Include	18	7
Key Terms	19	8 - 9
Detailed Findings	20 - 69	9 - 21
Non-Compliance with BAO Trust Requirements	20 - 26	9 - 10
• Care & Maintenance Trust Fund	20 - 22	9
• Pre-Need Trust Money	23 - 26	10
Inconsistencies in Trust Allocations for Pre-Payment Plan Installments	27 - 33	10 - 12
Finance's Lack of Involvement in the Annual Financial Reporting to the BAO	34	12
Financial Statement Issues	35 - 43	13 - 16
• Revenue Recognition	35 - 38	13 - 15
• Due From Balance on 2020 Financial Statement for Cemeteries Trusts	39 - 40	16
• Special Income C&M Trust Allocation Adjustments	41 - 43	16 - 17
Cemeteries Management System and Current Processes	44 - 51	17 - 19
By-Law Issues	52 - 59	19 - 18
• Council-Approved Prices Not Charged	52 - 54	19
• Non-Resident Fees	55 - 57	19
• Cemetery By-Law BAO Compliance	58 - 59	20
Process and Procedures	60 - 61	20
Other Issues	62 - 69	20 - 22
• Trust Investments	62 - 64	20
• General Ledger Account Recording	65 - 67	21 - 22
• Retention of Documentation Improvements	68 - 69	22
Recommendations	70	22
Conclusion	71 - 72	23

Executive Summary

- 1 Staff from the Financial Planning, Administration & Policy (FPAP or Finance) Division reached out to the Office of the City Auditor (OCA) regarding concerns over the accuracy and compliance of the amounts and processes related to Cemeteries Trusts reporting. FPAP and the Cemetery Administrative Office (CAO or Cemeteries) had several discussions regarding the process compliance and accuracy of the amounts in the Trusts but could not come to an agreement. As a result, OCA performed an audit focused on the processes at the CAO and FPAP that related to the recording of Cemeteries Trust financials.

- 2 Highlights of our findings are as follows:

Regarding trust management, we found that the City of Hamilton (COH) is not in compliance with timing and recordkeeping requirements as governed by the *Funeral Burial and Cremation Services Act (FBCSA)*. Additionally, our processes to allocate collected trust money has not been consistent over the years and there is money that has not been moved to the respective trust accounts as required by the *FBCSA*. In addition to not being compliant with the *Act*, there is the issue of lost interest earned on the trust over the years.

- 3 We also identified two issues related to the City's financial statements. First, we identified that revenue is being incorrectly recognized for prepaid services contract revenue and trust money collected. Prepaid contract services (payment for services in advance of a burial which can be done years in advance) revenue is being recognized when we receive full payment on the contract. However, it should only be recognized when services are provided - when a burial takes place. Additionally, money collected for the two trusts related to maintenance of cemetery property and markers is being recognized as revenue when it should be considered additions to the principal amounts in the trusts and not revenue.

The second issue that was identified is that there is a \$1.2 M "Due From" the COH to the Cemetery Trusts on the annual audited financial statements. This has been a relatively fixed amount for several years. This is a payable from the COH to the Cemetery Trusts. OCA made inquiries into this to understand why there is money that is owed from COH to the trusts, however, we have not received a clear explanation as to why it exists and what it is made up of. It is also unclear how this meets obligations of the City to keep its own monies separate from trust monies and to ensure the appropriate interest accrues to the trust.

- 4 The CAO is scheduled to switch from their current cemeteries management system to the City's new Enterprise Asset Management (EAM) system. Though there are aspects of cemeteries management which would work well with EAM (work orders, property inventory, etc.) there is revenue, liability and customer

contract management as well as trust tracking that are not an inherent part of EAM and will need to be customized. The switch is intended to be made in Q2/Q3 2023 which may be too soon considering the complexity of the financial aspects of the cemeteries management processes. It also appears that there may have been a lack of due diligence in deciding on the timing of the switchover.

- 5 OCA also identified issues related to non-compliance with the Council-Approved User Fee schedule. CAO was charging a lower fee than what was approved by City Council for a particular type of grave. OCA also identified where Cemeteries charged the prior year approved fees on a 2020 contract. Additionally, there appear to be some inconsistencies and informality regarding the applying of non-resident surcharges. The impact of these issues is lost revenue.
- 6 Finally, OCA performed a Cash Handling Audit on the CAO procedures and noted several areas of non-compliance with corporate policy. (Appendix C).
- 7 Overall, OCA has recommendations to bring the Cemeteries Trusts into compliance with the *FBSCA* and to address the financial statement issues noted and to improve governance and controls within the CAO and FPAP processes.

Introduction and Background

- 8 Hamilton Municipal Cemeteries is one of the largest municipal cemetery organizations in Canada, serving families for over 150 years (first burial was in 1850). The City of Hamilton operates 69 cemeteries across the greater Hamilton area. The total revenue recognized for Cemeteries in 2021 was reported as \$2,737,910 for cemetery sales.
- 9 The City of Hamilton is required to operate their cemeteries in compliance with the *Funeral, Burial and Cremation Services Act (FBCSA)*, 2002. The Bereavement Authority of Ontario (BAO) is a government delegated authority administering provisions of the *FBCSA*. Per the *FBCSA*, the City is required to set up three trusts related to the management of cemetery property, services, and supplies. They are the Cemetery Care & Maintenance Trust Fund, the Cemetery Monument Care Trust Fund, and the Pre-Need Assurance Trust Fund. At the end of 2021, the total market value of all three trust funds' investment portfolio was \$21,612,245. Additionally, there is a total balance of \$802,572 in the respective trusts bank accounts at the end of 2021.

- 10 There is an annual reporting process required by the BAO from all cemetery operators to provide information on the required trusts. The objectives of the annual reporting requirements are:
- to make sure cemetery operators put aside the legislatively required amount when selling interment, or scattering rights (a percentage or a fixed amount depending on the rights) into their care and maintenance funds;
 - the funds are properly accounted for on an annual basis; and
 - to ensure income generated from the funds is being used for the upkeep of the cemeteries in perpetuity.

What is a Trust?

A trust is an arrangement that allows one party, the trustee, to hold assets on behalf of another party – the beneficiary. Trustees have a fiduciary responsibility to act in the interest of beneficiaries in accordance with the rules of the trust. In the case of the Cemeteries Trust, the City of Hamilton has a duty to protect the assets of the trust and to follow the regulations of the Bereavement Authority of Ontario.

- 11 The BAO has licensing and enforcement duties and non-compliance penalties for municipalities may be up to \$250,000.
- 12 The COH had an inquiry by the BAO in 2016 regarding a discrepancy they noted between the closing balance and the opening balance on the City’s annual BAO reports submitted in 2014 and 2015. As a result of the inquiry, two key financial compliance issues were identified:
- Capital Gains had been removed for trust-related revenues from the Trust Fund beginning in 2010. This is not allowed per the *FBCSA*. Capital gains is considered principal and should stay in the trust. Only interest earned on the trusts can be used for care and maintenance of cemetery property and markers. The amount of capital gains returned to the trust after the BAO’s inquiry was \$195,863.
 - The amount of deposits reported by the City was not actually put in the Trusts. The amounts missing were from prepayment installment plans and Social Services lots.

The issues identified by the BAO were addressed by making adjustments to the trusts.

- 13 The importance of maintaining sound stewardship over trusts cannot be overemphasized. Besides the fact trusts are a fiduciary relationship, there are also regulatory requirements governing cemeteries management that add complexity and risk. Additionally, funerals are a vulnerable time for individuals, so the care taken with the money collected for burials also has reputational risk for the City associated with it.

Audit Objective

- 14 The overall objective of the audit was to:
- Gain an understanding of the current process related to the revenue collected by the City of Hamilton Cemeteries Administrative Office and the financial processes to record the revenues and trust fund allocations.
 - Evaluate our compliance with the *FBCSA* with regards to the management of our trust monies.

Audit Scope

- 15 The audit scope was focused on the Cemeteries Administrative Office (CAO or Cemeteries) and Financial Planning, Administration & Policy (FPAP or Finance) processes to collect and record sales revenue and to allocate the applicable trust money to their respective trusts. The focus of the audit was on 2021 financial processes and information, with historical data and records reviewed as appropriate and reasonable.

What We Did

- 16 OCA performed the following procedures:
- Gained an understanding of and assessed the processes and controls over contract sales, cash handling, and financial recording in the Cemeteries as processes that feed into the cemetery trusts.
 - Gained an understanding of and assessed the process and controls over financial recording in Finance with a focus on cemetery trust allocations.
 - Interviewed the BAO regarding the regulations and guidelines established by the *FBCSA* regarding cemetery trust management.
 - Reviewed the processes related to the 2016 BAO inquiry to determine if the issues identified are currently correct.

- Performed additional testing and review of procedures in areas tangential to the above processes as deemed relevant to the scope of the audit.

How We Did It

17

- Reviewed the applicable regulations and guidelines in the *FBCSA* for COH cemetery trusts;
- Interviewed relevant staff;
- Interviewed and consulted with the BAO's Registrar and Financial Compliance Manager;
- Examined Cemeteries and Finance financial reports and supporting documentation;
- Gained access to and used the cemetery management software (HMIS) for testing; and
- Performed testing on a sample of contracts and monthly financial records.

What the Scope Did Not Include

18

The audit is not an exhaustive review of compliance against the full *FBCSA*. OCA did not review the non-financial operational processes at the Cemeteries Administrative Office. As noted above, the scope was limited to processes relevant to cemeteries trust management.

Key Terms

19 **Funeral, Burial and Cremation Services Act (FBCSA), 2002** - Legislation that governs all Bereavement Sector activity in Ontario. The *FBCSA* along with its related legislation helps regulate bereavement service providers and helps ensure consumer protection when making bereavement-related purchase decisions.

The Bereavement Authority of Ontario (BAO) - A government delegated authority administering provisions of the *FBCSA*. The BAO was established as a delegated administrative authority (DAA) on January 16, 2016. The BAO regulates and supports licensed: funeral establishment operators, directors and preplanners; cemetery, crematorium, and alternative disposition operators; transfer service operators; and bereavement sector sales representatives across Ontario.

Cemeteries Care & Maintenance Trust Fund (C&M) - A trust fund established in accordance with the *FBCSA* that helps ensure the long-term upkeep of a cemetery. A cemetery operator is required to make contributions to the fund from the sale of property such as in-ground graves, crypts, tombs, niches, and scattering rights. The *FBCSA* outlines how much you need to contribute from the sale of each of these items. This will be either a percentage of the item’s price (e.g. 40% of the price) or a set dollar amount – whichever is greater. Only the interest earned on the fund is used for the care and maintenance of graves, crypts, tombs, and niches.

Cemeteries Monument Care Trust Fund (MC) - A trust fund established in accordance with the *FBCSA* that provides funds to maintain, stabilize, secure and preserve markers and monuments. A cemetery operator is required to make contributions to the fund from the sale of markers and monuments. The *FBCSA* outlines how much you need to contribute from the sale of each of these items. It is a set dollar amount based on the size. The interest earned on the fund is used for the care of the markers and monuments.

Pre-Need Assurance Trust Fund - A trust fund established in accordance with the *FBCSA* that holds funds received by a cemetery operator for services and supplies (excludes in-ground graves, niches, etc. which is covered by the Cemeteries Care & Maintenance Trust Fund) in advance of an actual burial. The interest earned over time on the initial amount paid into the fund covers price increases over the years up until the burial or cremation is needed.

Grave and Lot - A grave is a single burial space while a lot is one or more contiguous burial spaces.

Niche and Columbarium - A niche is a final resting place for ashes after cremation and is an individual compartment in a columbarium.

PPP or Pre-Payment Plan - A payment plan of usually 12 or 24 months, offered by the CAO, to pay for cemetery property or services in advance.

Detailed Findings

Non-Compliance with BAO Trust Requirements

Care & Maintenance Trust Fund (C&M)

- ²⁰ In 2021, staff from the Cemeteries Administrative Office (CAO or Cemeteries) and Financial Planning, Administration & Policy (FPAP or Finance) Division realized their process to allocate installment payments for Prepayment Plans (PPP) received for property was not in compliance with the *FBCSA*'s requirement that C&M trust money must be put into the C&M trust account within 60 days of receipt. Prior to 2021, all PPP payments were put in the Pre-Need Trust account even if a payment was for property and a portion should have been put in the C&M trust account. Beginning in March of 2021, when a PPP payment was received for a property purchase, the applicable trust percentage (40% for lots/graves and 15% for niches) of the payment was put into the C&M trust account and the remaining amount of each payment goes to the operating bank account. The process is now compliant with the *FBCSA*'s requirement.
- ²¹ While the procedure has been corrected, there is still the issue of reinstating the previously incorrectly allocated funds to their proper balances including interest. For active contracts (PPP payment plans that have not been completed) that started prior to 2021, there was discussion between CAO and FPAP as to how to correct the amounts previously paid for property and put incorrectly into the Pre-Need trust. Finance staff suggested a one-time adjustment to move all previously paid PPP payments applicable amounts to the C&M trust account and operating account. CAO and FPAP could not agree on the amount to adjust so the money was left in the Pre-Need Trust account and remains uncorrected.
- ²² In our opinion, the money left in the Pre-Need Trust account which should be allocated to the C&M Trust account for active contracts that started prior to 2021 is not compliant with the requirement that all C&M trust money should be put into the C&M trust account within 60 days of receipt. Additionally, because those amounts were in the Pre-Need Trust account instead of the C&M trust account, interest that would have been earned in the C&M trust will be permanently lost if the payments to be reallocated only consist of the initial contract amount.

Pre-Need Trust Money

- 23 The current record-keeping processes in place are not compliant with the *FBCSA*'s regulations for providing information to individual purchasers for their funds held in the Pre-Need Trust, for paying out any extra trust money that remains after supplies or services are provided, or for refunds.
- 24 Per the *FBCSA*, "an operator may hold prepaid trust money in a pooled trust fund only if the records maintained for the fund permit the tracking and reporting on funds in the fund on an individual contract basis." Additionally, if a purchaser requests, the trustee (the COH) must be able to provide them with a statement that accurately sets out the current value of their money.
- 25 The records at the time of purchase are kept at an individual contract level in HMIS, however, once the money is put in the Pre-Need trust account, there is no process to track the interest earned at the individual contract level which must be provided to the purchaser upon request. When Pre-Need services or a refund is needed, a manual "back" calculation is done in a spreadsheet to determine what interest was earned over time on the initial contract amount paid.
- 26 However, the spreadsheet's information for the calculation is not reflective of the actual interest earned by the trust over time and therefore information given to customers will be inaccurate. The spreadsheet calculates an annual interest rate based on an annual prime rate less 1.75%. Several inquiries were made regarding the origins of this method and inputs, but the process owners did not know how the spreadsheet and/or the calculation was developed. Interest earned on the contract amount paid (i.e. the principal) would include interest earned by the Trust Bank Account as well as any interest/income earned from securities lending activity, and bond interest from the trust fund itself.

Inconsistencies in Trust Allocations for Pre-Payment Plan Installments

- 27 In addition to reviewing the current 2021 process for Pre-payment Plans (PPP) trust allocations, OCA reviewed a random selection of months from prior years to understand what was being done prior to the new 2021 process. Most of the current staff responsible for the audited processes in Cemeteries and Finance started around 2016-2017. OCA went back as far as 2017 and found that from 2017 to present, at the end of the PPP plan's contract term, Finance staff would record journal entries to take the Total Contract Value out of the Pre-Need Trust (as noted above, all PPP payments, regardless of the purchase, were put in the Pre-Need Trust prior to 2021) and move it to the Cemeteries Operating Account with the intention of reallocating amounts to the appropriate trusts. During the period reviewed, allocations to the proper trusts were not consistent and money that should have been allocated to their respective trusts appear to have been left

in the Cemeteries Operating Account for those years. This results in a shortfall in funding that should have gone to the Trust.

28 • **Care & Maintenance Trust Fund (C&M):**

From January 2017-May 2017 when the Total Contract Value was taken out of the Pre-Need Trust, the C&M portion was not put into the C&M Trust. An adjustment was made in June 2017 to correct for these months and for 2014-2016. The adjustment was not only the C&M from the PPP portions but also the Special Income portions (payments for lots/graves for individuals under Ontario Disability Support Program-ODSP and Ontario Works-OW, Low Income) that were also not previously contributed (see the Special Income C&M Trust Adjustments issue below).

29 Though OCA did not review the financial records prior to 2014, we inquired with Finance staff if they adjusted for years prior to 2014. They claimed this issue was identified and an adjustment made as part of the BAO inquiry in 2016/17 and at the time the BAO only asked them to correct back to 2014. OCA reviewed BAO emails regarding this issue, and it appears that the BAO only identified the discrepancy back to 2014. The erroneous treatment went back further but has not been corrected. Regardless of the BAO requirement, the City has an obligation to the individuals who paid the C&M fees to ensure the money goes to the trust.

30 • **Monument Care Trust Fund (MC):**

From January 2017 to April 2020, the MC fees from PPP contracts that ended during this period were included in amounts moved to the C&M trust noted above instead of the MC trust. Thus, the funds went to the wrong trust. There was an adjusting entry in May 2020 for the prior months in 2020 (January to April) to reallocate the fees to MC trust, however, this was only the principal amount and did not include any interest accrued during that period. For 2017-2019 there is still \$800 in the C&M trust that needs to be reallocated to the MC trust. OCA did not go back prior to 2017, however, we inquired with Finance if they knew if similar adjustments were made prior to 2017 and they did not know. There may need to be adjustments for 2016 and prior. While the amount may not be significant, it is important that all monies be allocated to the trust in order to ensure long-term sustainability.

31 • **Pre-Need Trust:**

When the Total Contract Value was taken out of the Pre-Need trust at the end of the PPP contract terms, Pre-Need amounts were not put back into the trust. There was an adjustment done in 2020 to correct from January-May 2020 (the correct process of recording the interment/Pre-Need amounts started in June

2020 to present); however, it does not appear that prior years were corrected. These amounts should be corrected and put back into the Pre-Need trust.

- 32 In addition to not being in compliance with *FBSCA* requirements for trusts (money not being contributed to the applicable trusts and lost interest), there are other financial impacts of this issue. For the last ten years, the Cemeteries operating account has been at a surplus, however, given the issues identified above, this may not really be the case. Additionally, these errors would impact the long-term planning and budgeting for Cemeteries as the information to forecast subsequent years' revenues may be based on inaccurate information.
- 33 Based on available information, OCA estimated the lost interest for these shortfalls in funding for each trust to be -

Care & Maintenance	\$125,000
Monument Care Trust Fund	\$400
Pre-Need	\$89,000
Total Over All Three Trusts:	\$214,400

Note: Based on investment return rates going back only to 2010 through to 2021.

OCA did not look at information prior to 2010 but there may be additional impacts due to lost interest for the periods prior as well.

Finance's Lack of Involvement in the Annual Financial Reporting to the BAO

- 34 There is an annual financial reporting requirement for cemetery operators to report each year's financial activity on the two maintenance trusts (C&M and MC) and the Pre-Need trust. Cemeteries Administration staff independently completes and submits this report with no formal review from the Financial Planning, Administration & Policy (FPAP) Division. FPAP or the Financial Services Division should be involved in all financial regulatory reporting that is done on behalf of the City of Hamilton.

Financial Statement Issues

Revenue Recognition

- 35 Revenue from Pre-Need sale contracts and C&M and MC trust money is not being properly recognized per Public Sector Accounting Board (PSAB) standards.

Revenue Recognition

Typically, revenue is recognized when a critical event has occurred or when a product or service has been delivered to a customer. The revenue recognition principle using accrual accounting requires that revenues are recognized when realized and earned – not when cash is received. If revenue is recognized before it is earned (before the actual service or product has been delivered), revenue is considered overstated.

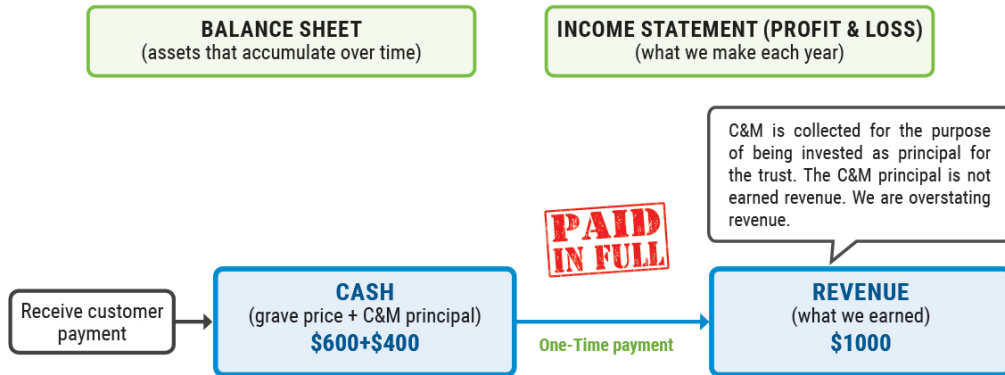
- 36 OCA identified that Pre-Need revenue and C&M and MC trust money is being recognized as follows:
- For Pre-Need contracts, revenue is being recognized when it is paid in full (either when one-time full payments are received, or Pre-Payment Plan (PPP) payments are completed).
 - For C&M and MC trust amounts, the principal is being recognized when it is paid in full (one-time and PPP payments).
- 37 OCA confirmed with the City's current external auditors (KPMG) the following regarding revenue recognition requirements:
- For Pre-Need contracts, revenue should not be recognized until the funds are applied to a service performed (i.e. when the burial is performed/supplies provided).
 - For C&M and MC trust amounts, the principal should not be recognized as revenue. The principal is added to the trust. The principal should never be recognized as revenue only the interest income earned in the trust is recognized.
- 38 Recognizing revenue too early results in overstatement of revenue which makes it look like the City has more assets than it actually does. It gives an impression of a stronger financial situation than may be the case. A revenue recognition error that is considered "material" would require a restatement to the City's annual financial statements for all prior years this has been done incorrectly. OCA estimated for 2021, the total amount of revenue overstatement is approximately \$900K. FPAP will need to consult with its external auditors to determine whether restatement is required based on the auditor's materiality.

The below diagrams are included to illustrate the gap between the current revenue recognition process and the correct process for one scenario of a one-time payment.

Revenue Recognition for One-Time Payment for Property (Current Process)

GRAVE/LOT PURCHASE EXAMPLE

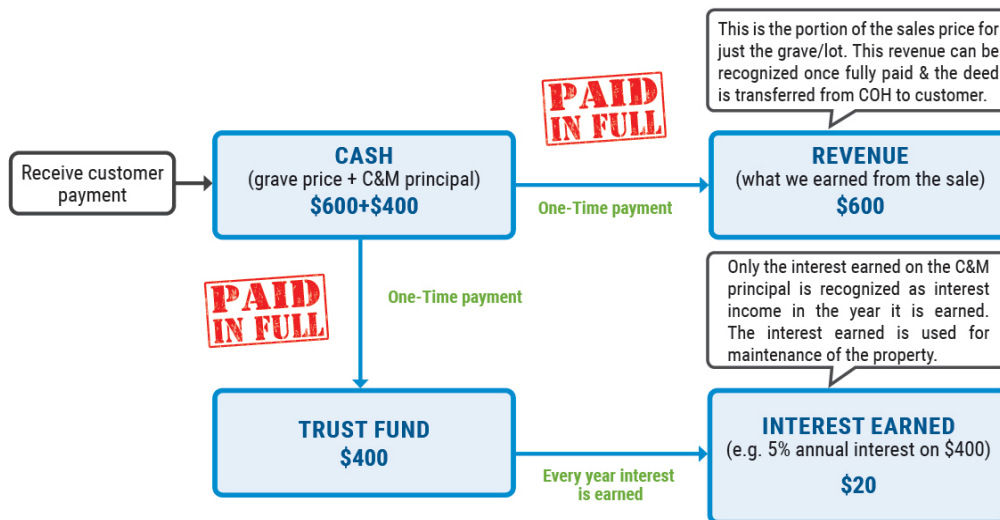
(For grave/lot purchases 40% of sale price is required to go to the Care & Maintenance (C&M) trust)



Revenue Recognition for One-Time Payment for Property (Correct Process)

GRAVE/LOT PURCHASE EXAMPLE

(For grave/lot purchases 40% of sale price is required to go to the Care & Maintenance (C&M) trust)



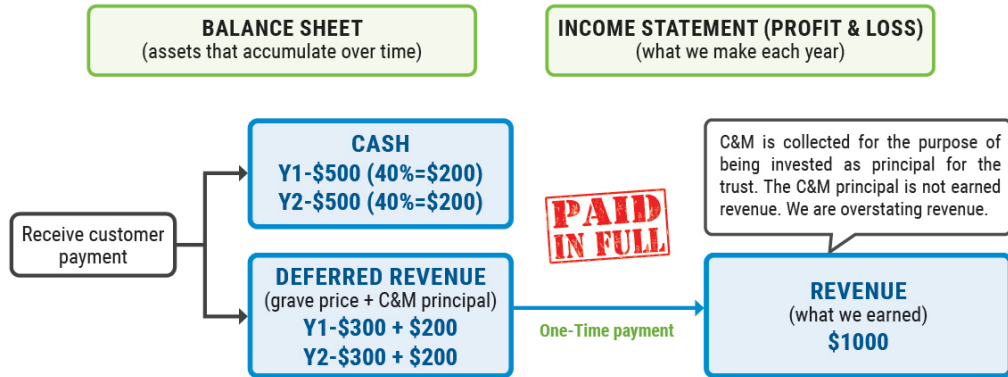
Note: This diagram utilizes plain language. The City follows PSAB (Public Sector Accounting Board) accounting standards where the Balance Sheet is called the "Statement of Financial Position" and the Income Statement is called the "Statement of Operations".

The below diagrams are included to illustrate the gap between the current revenue recognition process and the correct process for one scenario of a pre-payment plan (PPP).

Revenue Recognition for Pre-Payment Plan (PPP) for Property (Current Process)

GRAVE/LOT PURCHASE EXAMPLE

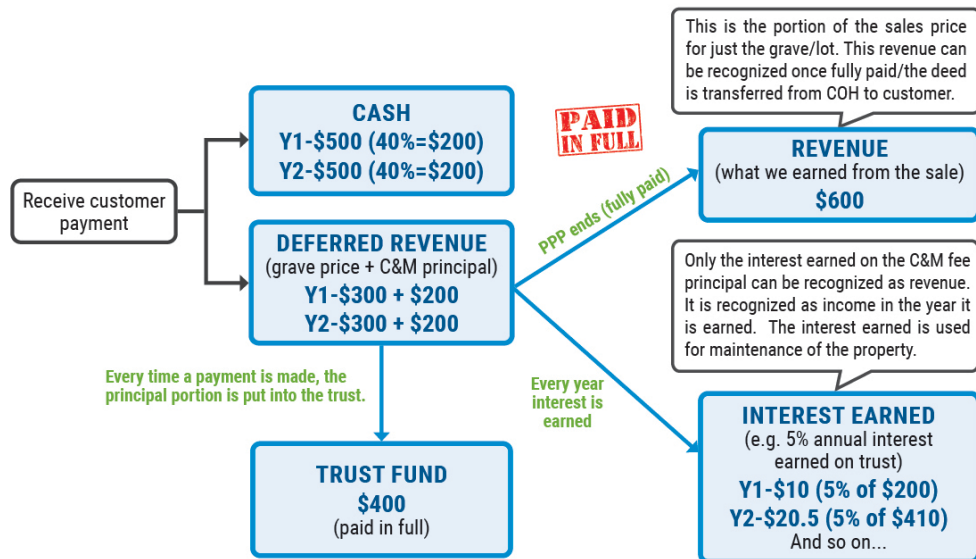
(For grave/lot purchases 40% of sale price is required to go to the Care & Maintenance (C&M) trust)



Revenue Recognition for Pre-Payment Plan (PPP) for Property (Correct Process)

GRAVE/LOT PURCHASE EXAMPLE

(For grave/lot purchases 40% of sale price is required to go to the Care & Maintenance (C&M) trust)



Note: This diagram utilizes plain language. The City follows PSAB (Public Sector Accounting Board) accounting standards where the Balance Sheet is called the "Statement of Financial Position" and the Income Statement is called the "Statement of Operations".

Due From Balance on 2020 Financial Statement for Cemeteries Trusts

- 39 There is a \$1.23M Due From the City of Hamilton (COH) to the Cemeteries Trust reported as part of the 2020 audited Financial Statement for the COH (at the time of reporting, the 2021 financial statements are available, and this balance is now \$1.2M). This is money that the City of Hamilton (COH) owes to the three Cemeteries Trusts. OCA inquired about this with Financial Services (FS) in May 2022 and they needed time to investigate this in conjunction with Financial Planning, Administration & Policy (FPAP), however, they confirmed the money had not been transferred to the Cemeteries Trusts. OCA also reached out to the City's external auditors and they were not sure what the source of the balance was. They had information on the amounts owed to each trust and they said they verified the amounts were on the City's books, but no other work was done.

What is a "Due From"?

A "Due From" listed as an asset in the financial statements of the Cemeteries Trust represents monies that are owed to Trust – in this case by the City. This balance has been outstanding at over \$1M for multiple years. This raises concerns that fiduciary responsibilities have not been met in that these funds are supposed to be placed under Trust administration in a timely manner so it can be invested for the benefit of Cemetery customers.

In late July 2022, FPAP responded they had identified all the department IDs (DEPTIDs) that go into the Due From balance on the financial statement but would need more time to investigate and figure out what correcting entries need to be made and would reconvene with Financial Services in mid-September to go over next steps. FPAP met with Accounting Services in September and per FPAP, a draft of a standard operating procedure was created by Accounting Services for transactions that make up the Due From related to HST rebates and AP. However, this does account for entire balance of the \$1.2 M Due From.

- 40 OCA made several requests to management to understand this balance. It is OCA's understanding from FPAP management that no further analysis has been completed since the initial identification of the DEPTID balances in late July that go into the Due From balance. As of report finalization, OCA cannot conclude on this issue or its impact until more information is provided.

Special Income C&M Trust Allocation Adjustments

- 41 During the course of OCA's review of the process to allocate payments to the respective trusts, we found that for cemetery lot purchases paid for by Special Income (ODSP and OW), the C&M trust portion for these purchases included an Inter-Business Unit Balancing transaction (i.e. a Due To/Due From, or DTDF)) up

until May 2017. Per Finance staff, PeopleSoft automatically generates an Inter-Business Unit Balancing transaction whenever there are transactions between two Business Units. In this case between HAMTN (City of Hamilton) and CTRUS (City Trusts).

As noted above, as part of the BAO inquiry in 2016/2017, it was identified that C&M portions from Special Income purchases were not being put into the C&M trust account. In June 2017, adjusting entries were made back to 2014 and the process was changed to ensure that future Special Income C&M Trust contributions would be moved to the trust in compliance with FBSCA requirements; however, the Inter-Business Unit Balancing transactions were being used to record Special Income C&M trust amounts prior to 2014 and those years were not adjusted.

- 42 Finance staff did not know why the Special Income C&M Trust contributions were recorded with the DTF line item prior to 2017 and were not sure of what the process on ODSP/OW's side was to pay for Special Income burial services and graves. There are no standard operating procedures that document OW's process for payment of ODSP and Low-Income burial services and graves, and how the transactions should be recorded by Cemeteries Finance staff. Without awareness of the whole process, Finance cannot be assured transactions are recorded accurately and appropriately. In addition, there is also the cost of the services and graves that ODSP/OW also pays for, which need to be accounted for.
- 43 Additionally, though OCA has not been able to confirm if the pre-2014 unadjusted DTF transactions is part of the Due From balance from the City to the C&M Trust noted above, it should be included in FPAP's review of this balance.

Cemeteries Management System and Current Processes

- 44 The Cemeteries Administrative Office (CAO) is scheduled to switch from their current cemetery management software application, Hanlon Management Information Systems (HMIS) to the new Enterprise Asset Management (EAM) system with a target of January 2023 (Q1). Initially, CAO was scheduled to transition to EAM later, however, the application developer for HMIS, Batesville, is also discontinuing the Windows-based HMIS version that is used by Cemeteries, at the end of 2022. They are requiring all current users to switch to their cloud-based version at that time. Rather than pay the additional start-up costs to move to the cloud version, the transition to the EAM system was moved up.
- 45 EAM is primarily an asset management application. Work orders and Property Inventory are two aspects of Cemeteries operations that may be a good fit with EAM but HMIS is a cemetery management software that is much more than asset management. There are liabilities and revenues from the sale of cemetery supplies, services, and property, trust fund calculations and tracking, and

customer contract management including refunds and installment plan payments that are not regular functions of EAM which will need to be customized.

- 46 As of reporting, the process to begin design and creation of the customized functions has just begun, and conversations have been primarily with the CAO. Finance was not consulted for their processes for this transition. The deadline to switch over is intended to be Q2/Q3 2023. This would be after the design and creation of the customized functions which require a testing phase and a data migration phase. The deadline would appear to be fraught with risk.
- 47 Until EAM is implemented, CAO will continue using the unsupported (as of January 1, 2023) Windows version of HMIS. This means there will be no fixes to any functional or security issues. Additionally, HMIS is currently being housed on a Windows 2016 server, for which mainstream support ended in January 2022. This means we will continue to receive security updates, but any functional issue support will be at a cost. This may pose a risk to the information stored in HMIS and to the application itself.
- 48 Per CAO staff, an internal review was performed which included the COH's EAM consultant and IT Business Applications staff. IT Security staff were not directly involved in the review. Per CAO staff, the EAM consultant advised that because the HMIS cloud system is hosted in the USA and the City is not permitted to store information outside of Canada, Cemeteries could not use the cloud-based version of HMIS. The EAM consultant stated this is due to the Patriot Act that conflicts with Canadian legislation (PIPEDA-Personal Information Protection and Electronic Documents Act).
- 49 OCA reached out to Legal & Risk Management Services to confirm this information and they said it is a preference/best practice that data stay in Canada but not a requirement. PIPEDA governs private and federal organizations. MFIPPA is the privacy legislation that governs municipalities (and the legislation to which the City is bound). There is nothing per MFIPPA that prohibits data from being transferred outside Canada. Additionally, we were not able to identify any IT policy that prohibits this.
- 50 The switch to EAM does not appear to have adequately considered the customization that is needed, and the sensitivity and historical breadth of the information in the HMIS database. IT Security should have been involved to properly assess the risks of using an unsupported software for an extended period. Additionally, given the financial and trust aspects of cemeteries management that are a key part of the process and the fiduciary obligations of the City, Finance should also be heavily involved in the design of the new EAM system for cemeteries.
- 51 The current process for recording monthly revenue is very manual and spreadsheet intensive for both Cemeteries and Finance portions, which puts the City at a high risk of human error. It appears that part of the reason for this is that the older Windows version of HMIS the City uses is either missing the functionality to mitigate this and/or the system is not being used in a way that

allows Cemeteries and Finance to rely on reports run out of the system. Instead, there is currently a manual transfer of information in the system that gets sent to Finance to perform a similarly manual process. Further, there is the challenge that EAM customizations should not be mapped to the way current processes are being done. Rather they should be mapped to the improved processes, otherwise there is risk for the same issues identified in this report.

By-Law Issues

Council-Approved Prices Not Charged

- 52 The price for a Premium Preferred Grave was listed as \$2,956 on the 2022 Price list on the Hamilton Municipal Cemeteries website. Per the 2021 and 2022 Approved User Fees, the price for this type of grave is \$3,015. OCA also saw this pricing on one contract sample. Per Cemeteries staff, it was an internal decision to charge a different price than on the Council-Approved User Fees list.
- 53 Additionally, Cemeteries staff can override the prices set in HMIS. Each year, when Council approves the new user fees, the applicable updates are made in HMIS; however, the fees are not locked and can be overridden. Staff are required to ask approval from the Supervisor to do this; however, it is often a verbal approval, and not documented. OCA found one contract where a prior year fee was charged via verbal approval.
- 54 The annual Council-approved user fees must be charged, and departments do not have discretion to charge different prices. There may be loss revenue if prices charged are not consistent and it is important that staff follow Council direction for approved pricing.

Non-Resident Fees

- 55 Per the annual Council-approved user fees, a 25% non-resident surcharge is required to be applied on Property Sales for all non-residents. Per Cemeteries staff, if the purchaser or deceased has a relative with a Hamilton municipality address, the non-resident surcharge is waived. Resident vs. Non-Resident charges are not reviewed by a supervisor. It appears to be an honour system with the purchaser charged or not charged based on this.
- 56 Additionally, for one contract OCA sampled, there was no Hamilton municipality address listed and no non-resident surcharge applied to the contract total. It is unknown if this is an isolated incident or not.

Cemetery By-Law BAO Compliance

- 57 The current contract clause regarding property sales (lots, graves, niches, etc.) cancellations/refunds needs to be updated. Per Cemeteries staff, no refunds are given after 30 days once the property is paid in full, however, the contract does not state this. The contract term does not reflect our current policy and is a misrepresentation of our procedures.
- 58 Additionally, per the *FBCSA*, the municipality's By-laws should state the process for property refunds. The current practice is to not buy back the lot; however, this is not documented in the current Cemetery By-Laws.

Process and Procedures

- 59 Neither the Cemeteries Administrative Office (CAO) nor Financial Planning, Administration & Policy (FPAP) have documented standard operating procedures for their current processes around cemetery sales and trust administration. As noted above, the processes in both areas are very manual and spreadsheet reliant which puts them at high risk for human errors that may remain undetected. Additionally, the formulas used in the spreadsheets are not locked to prevent unintended changes. Finally, the key staff currently have no back-up to perform their duties when they are not at work.
- 60 The objective of having formally documented standard operating procedures is to help guide the organization's operations to fulfill departmental objectives. Given the manual processes and compliance requirements for cemeteries financial management, documented procedures are important for consistency and completeness of what needs to be done. It also serves as a document for transfer of knowledge for new employees.

Other Issues

Trust Investments

- 61 The three Cemeteries Trusts (C&M Trust, MC Trust, and Pre-Need Trust) all receive income from what is referred to as "securities lending activities" overseen by Royal Trust (part of RBC Wealth Management). Securities lending involves the owner of shares or bonds transferring them temporarily to a borrower. In return, the borrower transfers other shares, bonds, or cash to the lender as collateral and pays a borrowing fee. The City Trust Fund earns a portion of the fee as income to the trusts. Per the Council-approved investment policy (Report FCS19074,

Appendix A-Reserve Revenue Funds Trust Accounts Statement of Investment Policies and Procedures, Section 6-Trust Accounts: Permitted Investments), securities lending is not listed as one of the types of permitted investments.

- 62 Most of the investments in the trusts are Provincial and Guaranteed, Municipal, and Corporate bonds. There is some common stock, but not of significant amounts. The income earned by the cemeteries trusts from securities lending is minimal. For 2021, over all three trusts, the COH earned \$4,936 from securities lending. As noted earlier, the total market value as of the end of 2021 of all three trusts was \$21,612,245.
- 63 During OCA's review of the Cemeteries Trusts securities lending activities, we reviewed the Securities Lending Agreement (SLA) between the City and Royal Trust. The SLA applies to all securities lending activities for the City and not just the Cemeteries Trusts. The agreement appears to be out of date. As a result, the City may be exposed to unnecessary risks or loss of income from being able to maximize earnings from securities lending. OCA identified the following issues with the SLA:
- It was signed over 19 years ago in January 2003.
 - The agreement terms state that notices should be sent by first class mail, personal delivery, or facsimile transmission, which is not in line with modern business practices.
 - The list of Securities Borrowers includes Lehman Brothers which no longer exists.
 - In general, the terms seem to give Royal Trust significant autonomy and authority and did not offer a lot transparency to their processes or decision-making.
 - There was an amendment to the Agreement in March 2019 which updated the fee for services to 40% of fees collected from securities borrowers, down from 50%. This amendment was reviewed by Legal Services. Per management in the City's Investments Section, the fee was renegotiated in 2019 as that was the going market rate. This is only change noted in the amendment.

General Ledger Account Recording

- 64 Lot sales and marker setting revenues are recorded in specific DEPTIDs for the specific cemetery (e.g. Eastlawn Cemetery revenue from lot sales is recorded in the revenue account specifically for this cemetery). However, niches/columbarium revenue are not recorded in the specific cemetery where it is located. It is not clear why this is done for lots but not niches/columbarium. Per FPAP staff this procedure was inherited and there may have been a historical reason, but they do not know what it is. Essentially "it has always been done this way" was the rationale provided to us.

- 65 Depending on the reason and impact for the specific revenue coding above, for three refund samples OCA reviewed, the refunds were coded to the wrong cemetery's revenue account. For example, a refund for Mt. Hamilton Cemetery interment fees was recorded in the revenue account for Ancaster Cemetery.
- 66 It is not clear what the impact is of the above two issues if we do not know the reasoning for the differences in revenue coding. If there is no financial impact or purpose for booking revenue to specific cemeteries, then this would help reduce the amount of work for month end financials. If there is a purpose, the procedure for recorded revenue should be documented in a standard operating procedure.

Retention of Documentation Improvements

- 67 For some verification support that was requested during the audit, Cemeteries staff was not able to provide information until they went into the office as some records are kept in hard copy (BAO reports, refunds, etc.).

Also, during the course of the audit, OCA noted that supporting documentation for Finance staff entries were not attached in PeopleSoft and had to be requested, which in some cases involved searching through old emails. The monthly workbooks are very large and are available on their shared drive. This support is not needed to be attached as the information is accessible but any one-time journal entries, especially for adjustments, should be attached to the journal entry.

- 68 Proper retention of reporting and supporting documentation is important for historical recordkeeping and compliance purposes. Hard copies are at risk for accidental loss, misfiling, or destruction. Additionally, records should be kept in compliance with the City's Records Retention By-law (By-Law No. 11-040 To Establish Retention Periods for Records of the City of Hamilton and 21-055 To Amend By-law No. 11-040, to Establish Retention Periods to Records of the City of Hamilton).

Recommendations

- 69 Please refer to Appendix "B" to Report AUD23001 for a list of Recommendations and the related Management Responses that will strengthen governance and oversight of the Hamilton Municipal Cemeteries Trusts-related processes.

Conclusion

- 70 The OCA has brought forward several observations and recommendations to strengthen controls, improve processes, and ensure compliance and accuracy in both Cemeteries Administrative Office and Financial Planning, Administration & Policy processes related to cemetery trusts management.
- 71 The OCA would like to thank the Cemeteries Administrative Office and Financial Planning, Administration & Policy staff and other participants for their contributions throughout this audit. We look forward to following up with management in the future to see the progress of their action plans and their impact on improving the processes and compliance for cemetery trust management.

**Office of the
City Auditor**

Charles Brown CPA, CA
City Auditor

Brigitte Minard CPA, CA, CIA, CGAP
Deputy City Auditor

Nancy Hu CFE, CIA
Senior Auditor

Phone: 905-546-2424 ext. 2257

Email: cityauditor@hamilton.ca

Website: hamilton.ca/audit

SPEAK UP – Reporting Fraud and Waste

Online: hamilton.ca/fraud

Phone: 1-888-390-0393

Mail: PO Box 91880, West Vancouver, BC V7V 4S4

Email: cityofhamilton@integritycounts.ca

Copies of our audit reports are available at: hamilton.ca/audit

Alternate report formats available upon request.