



CEMETERY MAINTENANCE AND CONSERVATION POLICY

PREAMBLE

In Quebec, we have of late realized that our cemeteries are more than just places where we bury our dead. They are, in effect, archival documents in which are contained a wealth of information, much of which was previously unknown. This information has long been untapped yet it is an incredible resource recounting, better than many written documents, the genealogy of families, the demography of a place, the methods of burial and everything related to it.

We have every interest in preserving our cemeteries, especially since they are not always as well maintained as they should be; the monuments and tombstones are often in poor condition and their epitaphs are slowly disappearing. The cemeteries of the Town of Sutton have not escaped the ravages of time.

Recognizing the richness of our collective heritage and the urgency of action, the Council of the Town of Sutton accepted by resolution on April 2, 2012, a proposal by the Advisory Committee on Culture and Heritage. This proposal suggested that the Town develop a policy of maintenance and preservation of cemeteries and other burial sites. The mandate to develop a draft policy was assigned to the Heritage Sutton historical society. The policy presented in this document flows from the work done by Heritage Sutton.

The heritage and historical significance of cemeteries

Death has long fascinated, probably since the time of our Neanderthal ancestors who were the first humans to bury their dead. Anthropologists and sociologists have written about funeral rituals and death, often to decode the symbolism. In fact, though the word *death* first of all brings to mind the notion of biological death, there is also cultural death, in the sense that man's attitudes when faced with death varies in time and space.

Cemeteries are an integral part of the funeral rite even though they come at their conclusion. Cemeteries are often all that remains of the funerary rituals of the past. In addition, tombstones contain unique historical data. The epitaphs carved into them create a register, often the only one, to document the presence in a community of certain individuals and families. Moreover, the way the tombstones are arranged, their shapes and dimensions, the material from which each is made, reveals the attitudes of our ancestors in the face of death and their dead.

In Quebec, interest in death, and in cemeteries in particular, has resulted in several publications as well as the creation of study groups and organizations dedicated to the protection, conservation and appreciation of cemeteries. Many inventories of tombstones or of the deceased have been made in several municipalities across Quebec. This passion



is fueled not only by the threat to our old cemeteries, but also by the realization that they contain information essential to a completing understanding of our history.

Sutton's funerary heritage

The Town of Sutton shares this interest in funerary heritage. In November 2010, the Council asked Heritage Sutton to conduct a preliminary inventory of burial sites in the territory of the municipality.

The document search conducted under this mandate has highlighted inconsistencies and gaps in the records of burial places; it also revealed what was done elsewhere and clarified the legal context appropriate for burial sites.

The field survey has identified at least sixteen burial sites on the territory of the Town of Sutton. The overall picture is very diverse. Some cemeteries dating back to the early settlement of the Township, others are much more recent. The number of dead buried varies from very small (two graves) to very large (thousands of graves). Nine cemeteries are inactive (see Appendix A), while the other seven continue to welcome the deceased. The early settlers being from the United States, it is not surprising that twelve of the sites are Protestants; amongst the other four, two are Catholic and two multi-faith. Seven are the property of a church or a parish; four are located on private land; two on lots sold to the community, while the last three are the legal property of the Royal Canadian Legion, the Town of Sutton and a corporation respectively.

Observation on the ground paints a worrying state of affairs: one cemetery is endangered; others are not in good condition; none have escaped the ravages of time. Everywhere old tombstones are eroded, chipped, or threaten to fall and break, which has already been the fate of many. Weather - especially frost - erosion, moss and fungi is erasing epitaphs and depriving us of valuable information.

Several Sutton cemeteries contain the remains of Sutton's founders, as well as the first French-Canadian inhabitants. Preserving the last vestiges of their passage would be an honor to them as well as a sign of respect for their descendants who want to visit the grave of their ancestors. The adoption of a policy on funerary heritage meets this double consideration.

We can therefore say that cemeteries and burial places are our collective heritage. Although the tombstones are in theory private property, we must take into account that many of the descendants of the pioneers of Sutton no longer live in the area, and that some of the cemeteries where they are buried are no longer active. It goes without saying that those descendants still resident in Sutton and nearby will be called upon to help implement the action plan resulting from the policy.



A new policy born of the cultural policy

In April 2007, the Town of Sutton adopted a cultural policy. The third element of this policy is as follows: to highlight and promote culture and heritage. One of the objectives of this approach is "to ensure the protection and promotion of heritage."

To consider cemeteries as our collective heritage is to decide, as a municipality, to take steps for their protection and to do so as part of the municipal cultural policy. The new policy, whose objective is to bring together the actions of protection, conservation and enhancement of our cemeteries, is an immediate and concrete way of implementing the third element of the cultural policy.

The Town of Sutton is truly a pioneer in the adoption of this comprehensive policy. Incidentally, this is not the first municipal intervention as regards Sutton's cemeteries. On June 8, 1879, the Township of Sutton adopted By-law number 296. This provided for the establishment of a committee to ensure the protection and maintenance of cemeteries. This By-law was unfortunately repealed in the 1990s. An article published in issue number 133 (June 2012) of the journal *Continuity* tells us that throughout Quebec, 22 cemeteries are protected by statute of the Government of Quebec, 27 by municipalities and four by the Federal government.

The first step in this proposed new policy is the implementation of adequate safeguards for Sutton's cemeteries.

Municipal powers as regards the protection of heritage

Municipalities have significant powers in the protection of heritage. Here is a description of the main ones, their aim and their limitations.

Amendment to the Zoning By-law: Currently, zoning authorizes "places of worship and cemeteries" in all the areas where they are currently located in Sutton but this usage is not an exclusive one. It is possible to mark off zones where the only permitted use would be as a place of worship and / or as cemeteries but this can only be done for cemeteries located outside a permanent agricultural zone. Such changes would require an initial survey as well as the approval of an amendment to the by-laws by qualified voters.

Imposition of a minimum distance between any structure and an existing cemetery: Special provisions can be established in order to specify/ by zone, the space that must be left between buildings, and other uses, and a cemetery. This step can be taken under the *Loi sur l'aménagement et l'urbanisme*¹. This can be done after the cemeteries are mapped

¹ *Act Respecting Land Use Planning*. LRQ, c. A 19.1-art. 113, par. 4.



using GPS technology. This step also requires the approval of amending By-laws by qualified voters.

Conservation or non-building servitude: This measure included in the contract of sale of properties, helps to preserve the cemetery by prohibiting any construction within its boundaries. As the servitude is not provided for a municipal by-law, it is more difficult for the municipality to ensure monitoring in the long term. Also, an servitude requires the agreement of the current owners in order for this step to be taken. In addition, for cemeteries located in a permanent agricultural zone, usage of an agricultural nature cannot be prohibited even if a conservation servitude have been granted².

*Citation*³ : "The citation of a heritage object or space is a special protective measure available to the municipal council under the Law on Cultural Heritage. Citation ensures the preservation and enhancement of any building located on its territory which meets the definition of a heritage building or of any land which meets the definition of a heritage site whose protection is in the public interest. In general, these powers have been designed for local communities to conserve and enhance their own familiar heritage, which immediately contributes to the identity of a community and a region."⁴

Along the same lines, some cemeteries could possibly be subject to a citation, once the inventory and historical evaluation have helped clarify and monitor the process. A citation, whose primary motive is the official recognition of sites or objects of historical value, would allow the cemeteries in question to be inscribed in the cultural heritage registry of Quebec. The citation process in fact includes many steps as defined in the Law on Cultural Heritage and the Practical Guide for municipalities. It is preceded by a heritage assessment providing "an overview to aid comparison"; this highlights the characteristic elements and "the heritage properties that stand out for their significant value to the municipality." The citation process is therefore based on criteria that guide the selection of appropriate objects or spaces.⁵ The citation process involves joint work with the "local heritage council" (so the work may fall to the Urban Planning Advisory Committee) which gives an opinion and receives submissions from all people interested

² *Law on the protection of agricultural land and agricultural activities*, LRQ, c. P-41.1, art 98

³ *Loi sur le patrimoine culturel*, c. IV, Article 117-149: rôle of municipality

⁴ MAMROT web site: <http://www.mamrot.gouv.qc.ca/amenagement-du-territoire/guide-la-prise-de-decision-en-urbanisme/reglementation/citation-dun-bien-patrimonial/>

⁵ "The trigger for a citation may be the threat of destruction, demolition or alteration of the object(...) However, these reasons should not overshadow the real reasons for granting the status (...) The age of an object may contribute to its heritage worth, giving it a kind of historical value, but it is not an essential criterion. "La loi sur le patrimoine culturel - A Practical Guide for municipalities, p.21 (Appendix C). This guide was developed by the Ministry of Culture and Communication (MCC) for municipalities which apply the new law. Further information is available on the website of MCC (www.mcc.gouv.qc.ca).



in the issue, including the owners. As can be seen this is a complex process that does not allow for citation of all the cemeteries as a single group.

Regardless of the type of protection chosen, it must be taken into account that the majority of cemeteries are located on land situated in permanent agricultural zones, governed by the *Loi sur la protection du territoire et des activités agricoles*⁶, and that this law prevails over any incompatible Zoning Subdivision or Building By-law. At the very least however, the nuisance By-law requires homeowners in urban zones throughout the municipality to mow their land twice a year, which provides some maintenance.

⁶ *Act Respecting the Preservation of Agricultural Land and Agricultural Activities*. RSQ, c. P-41.1



POLICY STATEMENT

WHEREAS the cemeteries located in the territory of the Town of Sutton contain the remains of pioneers who contributed to the development of the Sutton community;

WHEREAS these cemeteries and the remains of pioneers are of great historical interest and heritage, equivalent to that of archival documents;

WHEREAS these sites are now part of our collective heritage;

WHEREAS, the maintenance of these cemeteries has not prevented their deterioration over time;

WHEREAS the protection of heritage sites is part of the third direction of the Cultural policy of the Town of Sutton with a specific objective: "to ensure the protection and enhancement of heritage";

WHEREAS the Town of Sutton has the powers to protect its cultural heritage under the Law on Cultural Heritage as well with Urban Planning and Zoning By-Laws;

IT IS PROPOSED THAT the Town of Sutton adopts a *policy of maintenance and preservation of Sutton's cemeteries* focused on three main strategies:

One: *Protect cemeteries and other burial sites*

Time, obviously, has done its work. Cemeteries and monuments cannot be removed from the weather. However, they can be protected against inappropriate human intervention or neglect. This is the objective.

The cemeteries do not all have the same legal status. When they are located on private land, they are the property of the property owner who currently has no obligation, other than a moral one, to preserve it.

Municipalities have the legal and regulatory authority to implement measures to protect cemeteries in order to maintain them for future generations.

Two: *Preserve the heritage represented by cemeteries and other burial sites.*

To preserve is more than to protect: it is to guard the memory of that which time destroys. This involves collecting historical information contained in the cemeteries and to evaluate the possibility of returning some of the places and monuments to their original state when it is possible to restore them.



Initially, it is important to identify what is to be preserved. Hence the need to know and to document.

Three: *Enhance cemeteries and other burial sites*

The development and promotion of our religious heritage is an effective and dynamic way to reach the people so that they become aware of the need to maintain and preserve this heritage. In the long term, it is this awareness that makes the difference because a by-law, rule or policy can be repealed but this is more difficult if it has the support of the population. Development and promotion is also a way to help families retrace their ancestors who lived in the original Township of Sutton.



APPENDIX A Some relevant definitions

A cemetery includes the land, fences, tombstones, human remains and, if necessary, chapels and tombs. There are many ways to classify them. Two appear to be particularly relevant in the context of Sutton.

1. Active and inactive cemeteries

An active cemetery is a place where the remains of deceased persons are laid to rest. It is still in operation and an organization is responsible for the management and the property. It is owned by a parish, religious or non-religious community, a municipality or a funeral home. A mausoleum or columbarium outside a cemetery, located in a funerary complex for example, must also be considered as an active cemetery. The remains of one or more persons held in a private residence or ashes scattered in the wild or on private property should not be regarded as a cemetery.

An inactive cemetery is one where the dead are no longer buried and this for a long time.⁷ Some are still visible. The tombstones still stand there and they are more or less well defined and maintained. Others have disappeared from the landscape. They were in use for some time before being closed, usually to be replaced by a new cemetery. They were or were not deconsecrated, the dead were exhumed in whole or in part and the tombstones removed. The land they occupied has a new function: a park, a parking lot, a street, etc. In general, only historians, archaeologists and urban planners for example are aware of these former cemeteries. With few exceptions, they do not enjoy any civil or religious recognition.

2. Private, community or "corporate" cemeteries.

Cemeteries do not all have the same legal status. When they are located on private land, they are the property of the property owner who has no obligation, except a moral one, to preserve it. These are private cemeteries.

Some cemeteries are located on land donated to the community to bury their dead. They are called community. If they are not associated with any known owner, they are considered orphans.

Finally, other cemeteries owned by a corporation duly organized, a church or a corporation, for example, which provides management and maintenance of the premises.

APPENDIX B: Law on Cultural Heritage.

⁷ The Missisquoi Historical Society considers that a cemetery is inactive when the last burial took place more than 50 years ago. But one is not immune to surprises. For example recent burials took place after a period of inactivity of 80 years in the cemetery Mudgett, (1922-2002)



APPENDIX C: Practical Guide for municipalities applying the new law.