

Memorandum Regarding Lindsay Jail Burials

Introduction:

I am the holder of Archaeological License A-307 issued by Ministry of Tourism, Culture & Sport, and for over a decade, I have been active in the heritage community of the City of Kawartha Lakes. In 2018, I was recognized by the Kawartha Lakes Municipal Heritage Committee with the *Osprey Award* for my efforts in promoting archaeological heritage. I have also published material related to local history.

2015 – 2020: Director, Kawartha Lakes Culture and Heritage Network

2011 – 2019: President, Peterborough Chapter, Ontario Archaeological Society, now serving as Vice President

2010 – 2011: Director Peterborough Chapter, Ontario Archaeological Society

2016 – 2017: President, Victoria County Historical Society (VCHS)

2009 – 2012, 2014 – 2015: Director, Victoria County Historical Society

2010 – 2015: Member, Heritage Victoria, (LACAC)

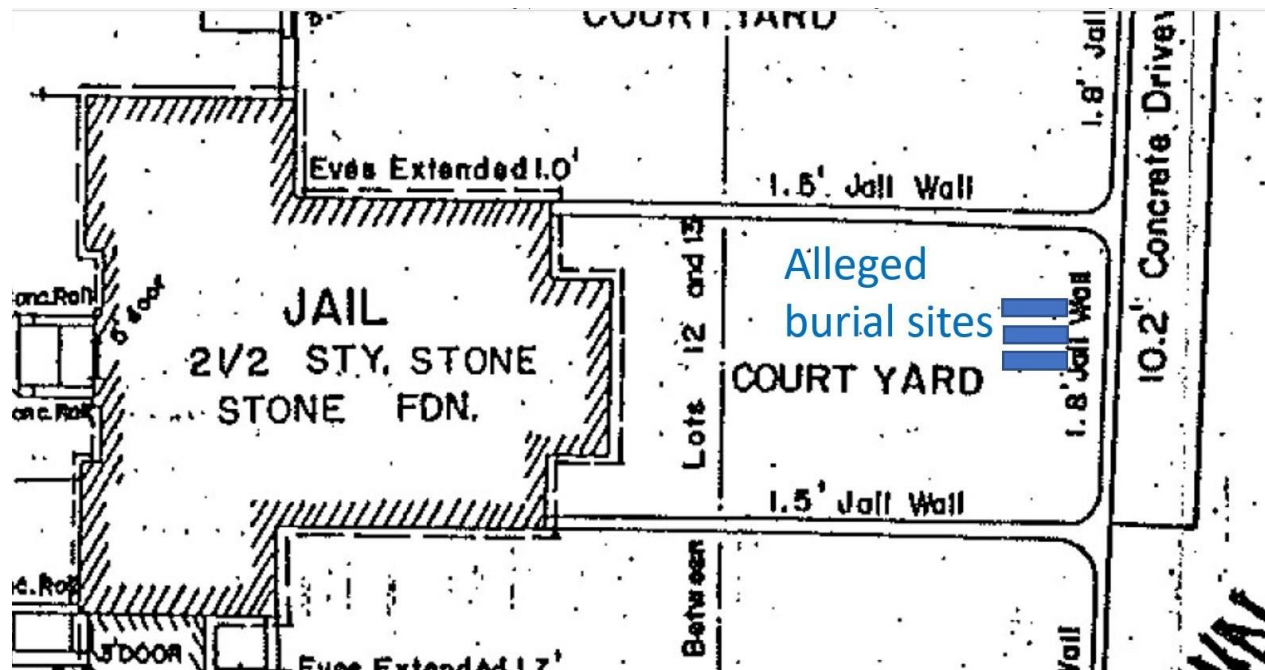
The Graves:

From my first association with the old Lindsay Jail, I was made aware of the claims that there were three unmarked graves located in the centre courtyard. It was said that they were related to executions by hanging that were conducted on-site. As such, that notion remained in the backs of our minds as we planned public usage for the area.

It was noted in a report from the firm of Wilcox Architects Incorporated, dated August 9, 2009, that *"The courtyard offers some expansion potential but there are mechanical units on steel supports and there are 3 gravesites in the middle section which limits this to some degree."*

In November of 2009, Mr. Larry Thomas gave Board members a tour of the facility from his perspective as the jail's former supervisor. He confirmed the veracity of the graves and their locations. He told us that there were three inmates buried there, two males and a female, with the latter in the middle position. It was also his belief that they had been executed. Further, that slate

had been placed upon the burials, but pieces would periodically surface due to cryoturbation, and would occasionally need to be secured by staff in order that they not be sharpened by inmates for use as weapons.



(Detail from 1970 survey of jail lot. Reported grave locations added by author)

Minutes of the VCHS Board meeting of October 5, 2009, under New Business, reflect that event:

Burials in the courtyard are of a great interest to visitors, the President reported on a visit from Mr. Larry Thomas the last superintendent of the jail and he confirmed the three burials, their approximate locations and agreed to speak to a friend who could witch for the graves. John will report back to the board with the results.

This is also confirmed in my personal notes. What that amounts to, in my opinion, is that a former Officer of the Courts had made the claim that there is an unregistered cemetery located on the site that had been under his supervision.

In 2011, I met with the Registrar of Cemeteries, Mr. Michael D’Mello on an unrelated matter and mentioned the issue of the alleged gravesites. There was some possible recollection of a cemetery on-site, but neither he nor his assistant could be certain. At that point, matters were set aside as our efforts were steered towards opening the museum to the public. I returned to the conversation with him in May 2015, asking for direction in the matter. He responded:

Please share the following with your Board members: If the Board is uncertain that the site contains intentional burials, I recommend that an archaeological assessment be conducted of the site following written consent of the landowner being obtained.

If you have any evidence that the site is a cemetery (inactive at this time), the landowner is required to ensure that the landowner is licensed as a cemetery operator.

The fines for an individual who violates the Funeral, Burial and Cremations Services Act, 2002 is \$50,000 for an individual and \$250,000 for a corporation.

I followed up with Ms Cathy Sleep, of the City's Municipal Cemeteries Administration in May of 2015, asking if the jail property contained a registered legal cemetery. She responded:

...the Lindsay Jail is not on our licence as a cemetery site. The Cemeteries Regulation Unit may be able to confirm whether it had a licence. There were only 2 executions at the Lindsay Jail, one of the deceased was interred in his family plot in Riverside and I could not locate the burial site of the other. I suggest you look at the Archives of Ontario for the Lindsay Jail Register from the year of death for Mr. David E. Nesbitt, died Dec. 22, 1873. I have forwarded your message to the Records Clerk in our Clerk's department ... maybe there are some old records for the Jail in storage there.

I did not, however, hear back from the Clerk's Office.

In 2016, I requested that the museum manager, Mr. David Wesley, emphasize to the VCHS directors of their obligation to respect the alleged burial sites. I spoke again with Ms Sleep in December of 2017, and reminded her of the rumoured burials and that both the City and the museum were officially on notice that they had a legal duty to investigate the site before any changes were made to the landscape. At that point a "dowser" had examined the yards and proposed that a great deal more burials were to be found. That has not, of course, been confirmed but is not out of the realm of possibility.

After I had left the VCHS Board of Directors, in May of 2018 they requested assistance in answering a query from one Jocelyn Gill from Building & Property, City of Kawartha Lakes in which she asked:

I'm wondering if there is any documentation you may be able to provide in regards to any previously completed Archaeological surveys in the yards. I have inquired with our records department and they have nothing on file. Any information you may have would be beneficial.

I proposed a response, which I can only assume was used, stating in part:

To our knowledge, there have never been any archaeological surveys conducted of the Olde Gaol property. However, our former President has informed us that he was advised

by a former administrator of the Lindsay Jail that there remain three graves along the east wall of the inner courtyard. He also passed this information along to the Provincial Registrar of Cemeteries at the time, so we are on notice that the potential exists for human remains to be discovered there.

Since then, an archaeological survey has been conducted, although elements of the investigation raise some concerns. I was advised of the assessment taking place, and met with the principal investigator, Mr. Norbert Stanchly of AS&G Archaeological Consulting. I showed him the area that we had been told contained the graves, but in a follow-up visit I noted that I could not detect any evidence of shovel test pits having been sited there. Unfortunately, the City has decided not to offer up for review any interim filings by their consultant and accordingly, a Freedom of Information Request has been filed.

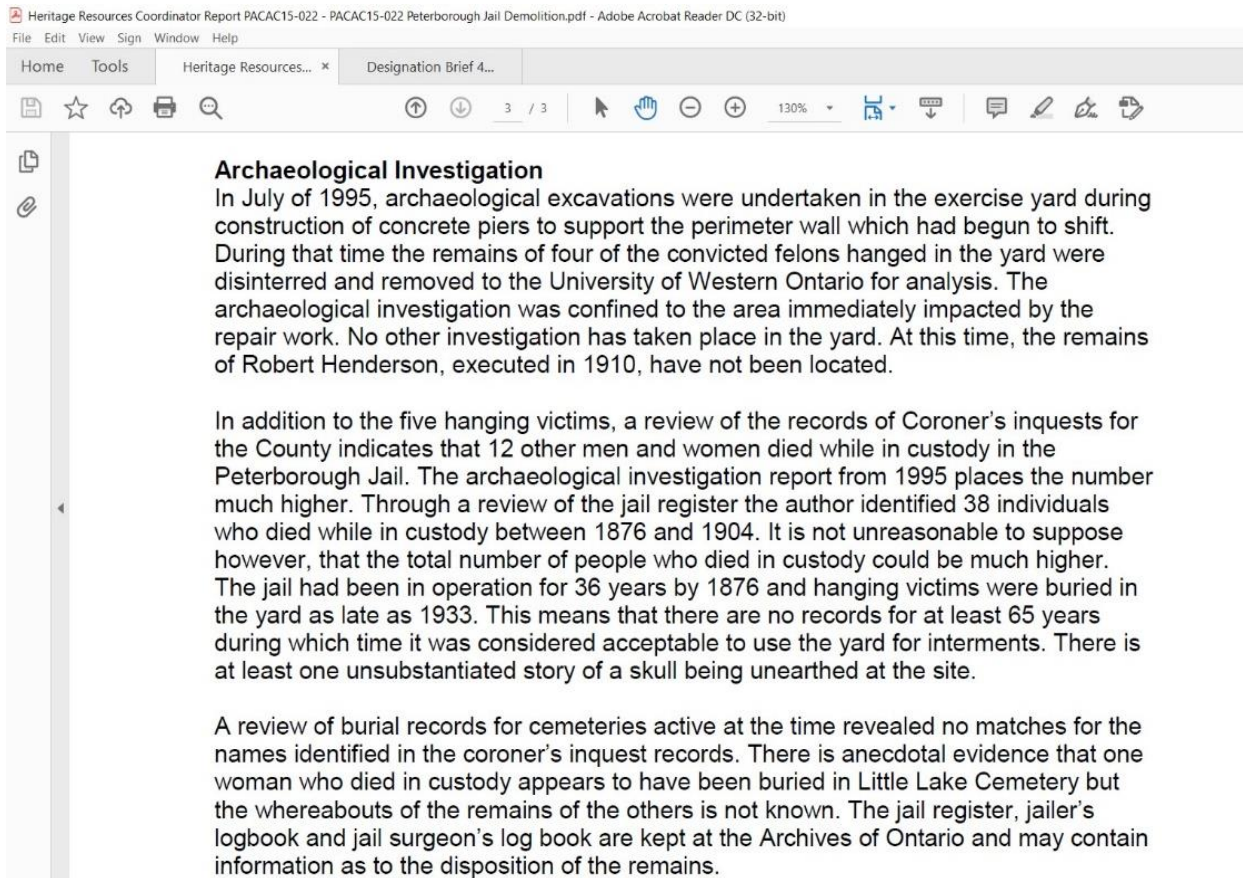
My understanding is that the former jail supervisor, Mr. Larry Thomas recently visited the facility again and reiterated his comments from over a decade ago.

Conclusions:

Based upon anecdotal evidence and the remarks from a former Officer of the Courts, there exists a strong likelihood for the graves to exist on-site as alleged. In addition, given that there had not been a lot of disturbance to the grounds to any great depth, there remains additional archaeological potential that should necessitate a more comprehensive survey of the complete courtyard area. I am also advised of the difficulty in detecting grave shafts by means of the standard shovel test pitting protocol. The area of the graves should be mechanically stripped of topsoil in a search for grave shafts, or ground penetrating radar, or electrical resistivity tests be conducted as dictated by the soil matrix. Further, it should be noted that historically, prison graves were dug much shallower than the norm. This possibility should be taken into account.

The City does have the additional option of following up with administrative records and the daily registers of the jail, which would surely reference burials and exhumations and be available either through the provincial archives or the Ministry of Community Safety & Correctional Services

It is also instructional to consider the report provided below, relating to the demolition of the Peterborough Jail, which was roughly contemporaneous and comparable with the Lindsay Jail.



Newspaper accounts from over the years speak of numerous deaths at the Lindsay Jail, often due to its use as a 'house of refuge' in the 19th century. The Peterborough report supports the notion of interments being made in prison exercise yards, as do descriptions from archaeological investigations at Toronto's Don Jail, so burials at the Olde Gaol are to be expected.

Bottom line? If there are dead buried on site, only one is possibly a victim of execution. They others would have been poor, sick, aged, infirm, indigent...any or all of these circumstances. They all deserve our respect. If it's nothing but a story, well, the issue is moot. But we are obligated to fully investigate the possibilities.

Tom Mohr, July 27, 2021, Lindsay.