



CITY OF KINGSTON
**REPORT TO KINGSTON MUNICIPAL HERITAGE
COMMITTEE**

Report No.: KMHC-10-003

TO: Chair and Members of Kingston Municipal Heritage Committee
FROM: Carolyn Downs, City Clerk
RESOURCE STAFF: Cynthia Beach, Commissioner, Sustainability and Growth
John Bolognone, Deputy City Clerk
DATE OF MEETING: March 8th, 2010
SUBJECT: Kingston Municipal Heritage Committee Mandate

EXECUTIVE SUMMARY:

The Ad Hoc Committee to Review By-Law 98-1, "Council Procedural By-Law" and By-Law 2004-360, "Composition and Terms of Reference for Committees", as part of their work, has been reviewing the mandate of the Committees of Council. The Committee deferred a decision on this matter on the understanding that the Chief Administrative Officer has directed staff to conduct a review in light of the many changes to the Ontario Heritage Act.

In carrying out the review of how the Kingston Municipal Heritage Committee ("KMHC") functions, staff contacted several municipalities across Ontario to obtain best practices. Kingston, with its many historic and architectural properties, has a significant number of buildings that are designated. The number of applications in front of KMHC appears to be much greater than what other municipalities deal with.

As a result of the aforementioned analysis, and in keeping with the general comments received from our initial consultation with KMHC, staff developed a draft terms of reference, which is consistent with the Ontario Heritage Act, and which would primarily focus the Committee's role on the provision of advice to City Council on the identification, protection, conservation and promotion of the community's cultural heritage resources. The draft mandate would be amended to increase the current membership from ten (10) to eleven (11) voting members and provide for staggered terms of two and four years for future members. Further, KMHC's composition would be revised to reflect the community's diverse population to include one member representing the local archaeological community, one member of the Frontenac Heritage Foundation, two members of Council, two members of the public at large and five representatives from different areas of the community.

In an effort to assist KMHC and Heritage staff in processing the increased number of multifaceted heritage applications, staff recommend that a Heritage Technical Advisory Team ("HTAT") be established. The Team would be comprised of two members of KMHC and three non-members of the Committee. The mandate of the Team would be to review the feasibility of applications for alterations received under Part IV and Part V of the Ontario Heritage Act in terms of heritage conservation best practices.

Consistent with staff's commitment to open communication, active participation, and strong collaboration with our local boards and committees, staff is recommending that a Working Group, consisting of two members from KMHC and two staff members, be struck to review the draft mandates for KMHC and the Heritage Technical Advisory Team. Staff would respectfully request that a report, with recommendations, be presented to KMHC in April in order to allow for implementation of the amended mandate(s) in June 2010. Because this timeline is very aggressive, staff would request that the Committee hold a special meeting on April 21 to review the outcomes of the working group. This would allow reports for delegated authority and the mandate report to be presented to Council at the May 4 meeting.

RECOMMENDATION:

THAT a Working Group, consisting of two members from the Kingston Municipal Heritage Committee ("KMHC") and two members of staff, be struck, in order to review the draft mandates for KMHC and Heritage Technical Advisory Team ("HTAT"), attached as Schedules "A" and "B", respectively, and to identify those items that should be delegated to staff and the HTAT; and

THAT the Working Group be requested to report back to KMHC in April with its recommendations; it being understood that the amended mandate(s), would be approved by KMHC and Council for implementation in June 2010.

AUTHORIZING SIGNATURES:

<p>ORIGINAL SIGNED BY CITY CLERK</p> <p>_____</p> <p>Carolyn Downs, City Clerk</p>	<p>ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER</p> <p>_____</p> <p>Gerard Hunt, Chief Administrative Officer</p>
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CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

Cynthia Beach, <i>Sustainability & Growth</i>	√
Terry Willing, <i>Community Development Services</i>	N / R
Denis Leger, <i>Corporate Services</i>	N / R
Jim Keech, <i>President and CEO, Utilities Kingston</i>	N / R

(N/R indicates consultation not required)

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OPTIONS/DISCUSSION:

The City Clerk's Department is committed to open communication, active participation, and strong collaboration with our boards and committees. With this objective in mind, staff attended the Kingston Municipal Heritage Committee ("KMHC") meeting in May, 2009, to receive input from the Committee on the proposed changes to its mandate. KMHC made several suggestions and revisions to the proposed mandate. The mandate has been re-written taking into consideration the comments received.

It is being recommended that a Working Group, consisting of two members from KMHC and two members of staff, be struck to review the attached draft mandates for the Committee and the Heritage Technical Advisory Team ("HTAT") and to identify those items that should be delegated to staff and the HTAT.

It is also being recommended that the Working Group be requested to report back to the April meeting of KMHC in April 2010, with its recommendations, for implementation in June 2010.

The revised mandate is attached, and the changes are as noted hereunder:

Composition:

The original recommendation was to increase the composition of KMHC from 10 to 13 members. During discussion with the Committee, it was suggested that this was too large and the composition needed to be reduced. Based on the comments received, the composition has been revised. It is now being suggested that the membership be increased from the current 10 to 11. This allows for an odd number of members, which is the preferred composition on all committees for quorum and voting purposes. As suggested, the membership has been re-worked and would be comprised of one member representing the local archaeological community, one member of the Frontenac Heritage Foundation, two members of Council, two members of the public at large and five representatives from different areas of the community as identified in the mandate. Although KMHC suggested that two members at large may not be required, staff is of the opinion that there are many people within this community who have an appreciation of the historic and architectural aspects of the buildings that exist, and would be able to provide valuable input to the Committee.

Term of Appointment:

The original document submitted to KMHC suggested that the term of appointment be staggered one, two and three year terms, as determined by Council. The Committee expressed concern about this term of appointment and various suggestions were made. Based on these suggestions staff is now recommending that term of appointments be for a two or four year term. This would ensure that KMHC retains some of its experience and memory over the years. Also included, as suggested by KMHC, is wording to require that appointments continue until new members are appointed. This would address the concerns expressed that there could potentially be a gap in the meeting schedule when Committee appointments are being made which would result in decisions on applications not being made within the 90 day limit outlined in the legislation.

Establishment of a Heritage Technical Advisory Team:

During discussion at the Committee meeting about the proposed mandate, the concept of a Heritage Technical Advisory Team was presented. The City of Hamilton was cited as an example of a municipality where a Heritage Technical Advisory Team exists as part of the heritage review process. In Hamilton, the committee is comprised of architects, consultants, developers and two Heritage Committee members and meets four times a month. One very significant difference between the City of Kingston and the City of Hamilton is that staff in Hamilton are delegated the authority to approve all applications under Part IV and Part V of the Ontario Heritage Act (except applications for new construction and applications for demolition). The Technical Committee reviews all applications in concert with staff, and if there is agreement, then the application is approved. A reporting system is in place to ensure that the Heritage Committee is aware of approvals. In those circumstances where there is disagreement on the outcome of an application, the application is 'bumped up' to the Heritage Committee and staff is required to write a report outlining both the Technical Advisory Committee's recommendation and the Heritage Staff recommendation. The

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two heritage committee members and staff are present at the heritage committee meeting and are able to present their reasons for the recommendations. In these instances, the Heritage Committee makes the final recommendation to Council.

Staff is recommending that a similar committee be struck in Kingston. The mandate of the Team would be to review the feasibility of applications for alterations received under Part IV and Part V of the Ontario Heritage Act in terms of heritage conservation best practices. Technical aspects of the applications will be reviewed by the Team, and comments provided to KMHC. Staff continues to recommend that certain types of applications be delegated to heritage staff, and these be reviewed by the technical committee and staff and if agreed to, processed accordingly. In those circumstances where there is a difference of opinion, then the application would be 'bumped up' to Heritage Committee together with a staff report. Representatives of both the Team and staff would bring forward their comments and concerns at the meeting. In these instances, the Committee will make its recommendation to Council for approval of the application, even though it is something that was delegated to staff. Only those items being delegated at this point forward would be reviewed by the Technical Advisory Team.

The composition recommended for this team is similar to that of the City of Hamilton. The non-KMHC members would be representatives from the community who have a background in construction, architecture, and development. It is further recommended that the two members from KMHC, excluding the Chair and Vice Chair, be members who have a strong understanding of heritage properties.

Mandate:

Several suggestions for changes to the proposed mandate were made at the meeting of KMHC when the first draft of the mandate was presented. These suggestions have been given due consideration and some of these have been incorporated into the mandate, where appropriate.

There were some housekeeping types of changes that were suggested, i.e. changing words within the document that made it read more appropriately, but did not change the intent, re-ordering some of the listed items, and so on. These changes are included in the amended document.

One of the more significant changes to the draft mandate was relative to the subsection that reads "*alterations of properties that require planning applications or building permits*". KMHC suggested that this be deleted and replaced with wording that would require that any exterior alterations that may change the building, including masonry repairs be referred to the Committee. In reviewing this further, it is the opinion of staff that there are items that could be delegated to staff that have the potential to impact the greater defining element as defined in the plan. Therefore, in order to make these changes more acceptable to KMHC and to allow the Committee to function in its most efficient manner, it is being recommended that items that do not require a building permit or a planning application, with the exception of windows and doors, be delegated to staff. Applications for these types of alterations would be approved or denied in consultation with the newly created Heritage Technical Advisory Team. These approvals/denials would be provided to KMHC on a monthly basis for information purposes. In those instances where there is a difference of opinion, the matter would be 'bumped up' to KMHC for a recommendation to Council. These would be accompanied by a staff report that would include the discussion points at the Team meeting and the reasons why the application is being brought forward. Council would ultimately make the decision and staff would implement it. In these instances the report would be required to go on to Council for approval, because KMHC's recommendation may be contrary to what staff is recommending.

EXISTING POLICY/BY-LAW:

By-Law 2004-360, "A By-Law To Define The Composition And Terms Of Reference For Committees Established By The Corporation Of The City Of Kingston"
Ontario Heritage Act

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NOTICE PROVISIONS:

There are no notice requirements.

ACCESSIBILITY CONSIDERATIONS:

This report can be provided in alternate formats.

FINANCIAL CONSIDERATIONS:

There are no financial considerations.

CONTACTS:

Carolyn Downs, City Clerk

Cynthia Beach, Commissioner, Sustainability and Growth

George Wallace, Director, Planning & Development

OTHER CITY OF KINGSTON STAFF CONSULTED:

Marnie Venditti, Manager, Development Approvals

EXHIBITS ATTACHED:

Schedule "A" - Mandate of the Kingston Municipal Heritage Committee

Schedule "B" - Mandate of the Heritage Technical Advisory Team

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Schedule "A"

ADVISORY COMMITTEE**COMMITTEE NAME:** Kingston Municipal Heritage Committee**COMPOSITION (AS APPOINTED BY COUNCIL):** 11 members as noted below;

Two (2) members of Council;

Two (2) members at large;

One (1) member of Cataraqui Archaeological Research Foundation;

One (1) member of the Frontenac Heritage Foundation;

Five (5) members who are representative of one or more of the following areas of expertise: history, architecture; archaeology; cultural and arts community; industrial heritage; heritage conservation, accessibility incorporation into heritage structures; modern architecture.

REPORTING TO: Council**TERM OF APPOINTMENT:** Staggered term of two and four years, as determined by Council, it being understood that the members continue to serve on the Committee until new appointments are made to a maximum of 6 years**MANDATE/TERMS OF REFERENCE:**

The Municipal Heritage Committee is established by Council under authority of the Ontario Heritage Act to provide advice and information to the City on the broader policy matters of heritage, including the identification, protection, conservation and promotion of the community's built form, natural environment, and cultural and heritage resources. In doing so, the committee shall:

- a) provide advice and information to Council and staff on policies related to cultural heritage resources in the Kingston community through reports to Council, which will be dealt with by Council in the form of one motion and which any member of Council can request that clauses be separated.
- b) make recommendations to Council on specific applications for alterations pertaining to a Part IV of the Ontario Heritage Act, designated heritage property which have the potential to impact an identified character defining element as defined within the designation by-law, and which have not been delegated by Council to staff, matters which staff have referred to KMHC, de-designation and repeal of designation by-laws, demolition, and amendments to amendments to designation by-laws;
- c) make recommendations to Council on specific applications for alterations pertaining to a Part V of the Ontario Heritage Act designated heritage property within a heritage conservation district based upon the respective district plan and guidelines and on any proposed removal or demolition of a structure within a heritage conservation district.
- d) make recommendations to Council on applications for heritage incentives program and easement agreements;
- e) advise and recommend to Council on the designation of individual properties and the designation of Heritage Conservation Districts before the passing of the by-laws, in accordance with the Ontario Heritage Act;

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- f) advise and develop working relationships with owners of properties on the municipal heritage properties register, as well as interested members of the community to increase understanding of the requirements of the Ontario Heritage Act and on cultural heritage issues in general;
- g) advise and assist with the development of educational programs and promote the activities of the City regarding cultural heritage;
- h) advise and assist with the development of municipal heritage conservation guidelines and significance criteria, and with municipal heritage policies, plans and programs;
- i) make recommendations to Council on matters of cultural heritage;
- j) liaise with other like organizations to promote Kingston's cultural heritage.
- k) where land development applications pursuant to the Planning Act are submitted to the City of Kingston which involve heritage designated property or property within a Heritage Conservation District, the following protocol will be followed:
 - i) development applications will be circulated to KMHC by the Heritage Group of the Planning & Development Department for comments;
 - ii) where the development application is for a Minor Variance or Consent that involves alteration to a property or structure, a separate Heritage Permit application is required; a decision on the Minor Variance or Consent application will not be made until the heritage application has been dealt with by Council. In situations where multiple applications and approvals are required, the processing shall occur concurrently to the greatest extent possible with the foregoing considerations applying.

Schedule "B"

COMMITTEE NAME: Heritage Technical Advisory Team

COMPOSITION: Two (2) members of KMHC, excluding the Chair and Vice Chair
Three (3) community members who have an expertise in heritage restoration, construction, architecture
Two (2) staff members

TERM OF APPOINTMENT: Ratified by Council, as recommended by staff, for the Term of Council

Note: The requirement that members of the public are eligible to serve a maximum of six consecutive years on the same Committee, does not apply to the Heritage Technical Advisory Team.

MANDATE/TERMS OF REFERENCE:

The Heritage Technical Advisory Team will work with staff to ensure that applications for heritage properties and districts are dealt with a timely and effective manner. Responsibilities include:

- review applications for alterations to designated and listed properties, and properties within a Heritage Conservation District with an outcome of presenting complete and feasible applications to KMHC for consideration;

Proposed processes for dealing with applications going to KMHC:

- a) Staff will receive the application and once completeness is determined, advise applicant accordingly;
- b) Staff and the Heritage Technical Advisory Team will review applications and determine whether the proposals are feasible, and if required, dialogue with proponent on how to amend the application;
- c) The Heritage Technical Advisory Team will not be responsible for making recommendations of approval or non-approval to the Heritage Committee;
- d) Staff and Heritage Technical Advisory Team will sign off on a form indicating that they have reviewed, and are in agreement that the best way to proceed is as outlined on the form; this would form part of the KMHC agenda;
- e) Applicants would be provided with the Heritage Technical Advisory Team/staff final comments at the same time as KMHC and would be provided with an opportunity to attend at KMHC meeting to address the Committee;
- f) Staff would address KMHC in relation to comments made by the Heritage Technical Advisory Team and staff at the review meeting;
- g) In those instances where there is disagreement between the Heritage Technical Advisory Team and staff, staff will bring forward a report to KMHC outlining the differing opinions; staff will be present to speak to their opinion, and the two heritage representatives will be present to answer questions on behalf of the Heritage Technical Advisory Team.

Note: Because the Heritage Technical Advisory Team will be comprised of specialist with expertise in construction, heritage conservation, architecture, etc., from time to time these individuals will have applications that they will be submitting to KMHC. In those instances, the member will not attend at or participate in the Heritage Technical Advisory Team meeting for their particular application. Those members will, however, be given the opportunity to bring forward their application to KMHC and address KMHC accordingly.