TO: Chair and Members of Municipal Heritage Committee  
FROM: Cynthia Beach, Commissioner, Sustainability and Growth  
RESOURCE STAFF: Shirley Bailey, Manager, Heritage and Urban Design  
DATE OF MEETING: November 5, 2012  
SUBJECT: Revised Delegated Authority to Staff

EXECUTIVE SUMMARY:
In June of this year, Council gave final reading to By-law 2012-96, ‘A By-Law to Define the Mandate and Meeting Procedures for Committees Established by the Corporation of the City of Kingston’. In order to implement the broader mandate, one of the matters that will affect the operation of the Municipal Heritage Committee will involve the powers which are delegated to staff. The attached Exhibit ‘B’ includes an expanded list of powers to set out the ‘Revised Delegated Authority to Staff’ for discussion by the Municipal Heritage Committee.

RECOMMENDATION:
THAT the Municipal Heritage Committee members review the attached Exhibit B regarding the Revised Delegation Authority, and provide comments to staff for incorporation into the new procedural by-law for heritage.

AUTHORIZING SIGNATURES:

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<th>ORIGINAL SIGNED BY COMMISSIONER</th>
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<tr>
<td>Cynthia Beach, P.Eng, MCIP, RPP, Commissioner, Sustainability &amp; Growth Group</td>
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<th>ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER</th>
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<td>Gerard Hunt, Chief Administrative Officer</td>
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CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

| Lanie Hurdle, Community Services | N/R |
| Denis Leger, Transportation, Properties & Emergency Services | N/R |
| Jim Keech, President and CEO, Utilities Kingston | N/R |
OPTIONS/DISCUSSION:

Background:

In 2005, Council passed By-law 2005-227, which provided staff delegated authority in limited and very specific situations under the *Ontario Heritage Act*. This is in line with Sections 33(15), 33(16), 42(16) and 42(17) of this legislation which provide for delegation of approval authority for Part IV and Part V designated properties. In 2006, By-law 2005-227 was updated to make minor revisions to shorten the timeframe within which certain positions (Mayor, Deputy Mayor, District Councillor or Chair of Municipal Heritage Committee) can request that the application go directly to the Heritage Committee. As can be noted in the table below, there have been limited number of times each year that an application is actually delegated to staff.

<table>
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<tr>
<th>Year</th>
<th>Delegated Approval</th>
<th>Total number of applications</th>
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<tr>
<td>2009</td>
<td>7</td>
<td>116</td>
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<tr>
<td>2010</td>
<td>14</td>
<td>160</td>
</tr>
<tr>
<td>2011</td>
<td>7</td>
<td>105</td>
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At a Council meeting on June 19, 2012, Council gave third reading to a revised mandate for the Heritage Committee. Among other matters, the broader mandate calls for a larger Committee and an expanded range of topics to be reviewed by the Committee. In order to facilitate the new mandate, it is recommended that there should be additional powers delegated to staff under the legislation.

As part of this initiative, staff are currently developing a procedural by-law for the many different aspects of the work that the Heritage and Urban Design staff members deal with. One element of the procedural by-law which the *Ontario Heritage Act* requires to be reviewed by the Heritage Committee involves increased delegated authority to staff. Several items are of particular importance, as noted below.

Currently, By-law 2006-149 makes specific reference to houses which are constructed since 1960. Because so few properties constructed since 1960 are designated under Part IV or V of the Act, staff are of the view that this provision does not need to be included in a new by-law. (These items are noted in Exhibit ‘A’ of this staff report.)

There are, however, numerous other projects which could be decided by staff. The advantage to this is the reduced period of time necessary for a heritage approval. As Committee members are aware, the cut-off date for heritage permit applications is three weeks prior to the date of the Heritage Committee meeting. This allows for the pre-consultation, if needed, the technical circulation, the site visit, and the preparation of the report to the Committee. (Increasingly, staff members are ensuring that pre-consultations take place with the planning staff, and that complete applications are taken to the Committee.) Assuming the Heritage Committee makes a decision on the matter at the meeting when the application is first presented, the approved motion goes to the next Council meeting, which is typically two weeks after the Heritage Committee meeting.
Committee. If the process goes smoothly, and depending on the workload on any given week, this five week period can be reduced to perhaps half of that time. This provides good customer service and timely approvals to the heritage client base.

The following are being recommended for inclusion in delegated authority: adding, removing or altering signage; replacing eavestroughs, downspouts, soffits and facia; replacing exterior lights; repair and replacement of windows in conformity with the windows policy; installing or replacing removable storm windows and storm doors; replacing roofing in specified situations; repairing existing features like siding and an assortment of architectural features; re-pointing of masonry; repainting in specified situations; installing mechanical or electrical equipment which is not visible from the street, repairing or replacing decks, porches, railings, steps, sidewalks and driveways; erecting accessory buildings or structures; and replacing and repairing fences. Exhibit ‘B’ includes the complete list.

Staff are also recommending that where a permit has been issued previously, and where Committee and Council have made a determination, that amendments to the heritage permit can also be decided by staff. There will, however, be the proviso in the procedural by-law that matters can be referred to the Committee for particularly complex or sensitive matters. The procedure of consulting with the Mayor, the Deputy Mayor, the District Councillor or the Chair of the Heritage Committee will also be incorporated into the new procedural by-law as per the existing By-law 2006-149 (attached as Exhibit A).

The current by-law requires that a summary of any approvals delegated to staff be provided to the Heritage Committee at the first following meeting, and then also to Council at the first following Council meeting, however this process is currently being reassessed in the development of the new procedural by-law.

EXISTING POLICY/BY LAW:

The original by-law (2005-227 as updated by 2006-149) is attached as Exhibit ‘A’.

NOTICE PROVISIONS:

Not applicable

ACCESSIBILITY CONSIDERATIONS:

Alternative formats of this report and the Exhibits are available on request.

FINANCIAL CONSIDERATIONS:

N/A
CONTACTS:

Cynthia Beach, Commissioner, Sustainability & Growth Group, 613-546-4291, ext. 1150
Grant C. Bain, Director, Planning & Development Department, 613-546-4291, ext. 3252
Shirley Bailey, Manager, Heritage and Urban Design, Planning & Development Department, 613-546-4291, ext. 3253

OTHER CITY OF KINGSTON STAFF CONSULTED:

Alan McLeod, Senior Legal Counsel, Legal Services, 613-546-4291, ext. 1237

EXHIBITS ATTACHED:

Exhibit A: By-Law No. 2005-227 ‘A By-Law to Delegate to an Appointed Officer Specific Approvals Under the Ontario Heritage Act’ as Amended by By-law No: 2006-149
Exhibit B: Revised Delegated Authority to Staff
CORPORATION OF THE CITY OF KINGSTON

Ontario

BY-LAW NO. 2005-227

A BY-LAW TO DELEGATE TO AN APPOINTED OFFICER SPECIFIC APPROVALS

UNDER THE ONTARIO HERITAGE ACT

PASSED: September 6, 2005

As Amended By By-Law No:

By-Law No. 2006-149 Passed July 18, 2006

(Office Consolidation)
City of Kingston By-law No. 2005-227

“A BY-LAW TO DELEGATE TO AN APPOINTED OFFICER SPECIFIC APPROVALS UNDER THE ONTARIO HERITAGE ACT”

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A BY-LAW TO DELEGATE TO AN APPOINTED OFFICER SPECIFIC APPROVALS UNDER THE ONTARIO HERITAGE ACT

PASSED: September 6, 2005

WHEREAS the Ontario Heritage Act states that the owner of a designated property shall not alter or permit the alteration of the property if the work being undertaken may affect the property's heritage attributes;

AND WHEREAS Sections 33(15) and 33(16) as well as Sections 42(16) and 42(17) of the Ontario Heritage Act, R.S.O. 1990, C. O.18, allow the delegation of approval for alterations or specific alterations to staff:

NOW THEREFORE BE IT RESOLVED that the Council of the Corporation of the City of Kingston hereby enacts as follows:

1. That the following works in relation to designated properties under Part IV and Part V of the Ontario Heritage Act, R.S.O. 1990, C. O.18 are hereby delegated to staff for approval:
   a. Repainting in the same or similar color;
   b. Replacement of asphalt shingles where there is little or no change in color or design;
   c. Repaving of driveways;
   d. Landscaping which does not require heavy machinery and which will not significantly change the appearance of the designated property; and
   e. Replacement of siding where the material and color is not being changed.

   (By-law No. 2005-227)

2. That with respect to newer properties, defined as being constructed after 1960, the following works are hereby delegated to staff for approval:
   a. Repointing of masonry based on the Masonry Guidelines developed by the Kingston Municipal Heritage Committee;
   b. Replacement/repair of windows and doors unless these were part of the reasons for designation;
   c. Replacement of any roofing material where there is little or no change in color or design; and
   d. Replacement of any deteriorated material provided it is done in kind and replicates the original.

   (By-law No. 2005-227)
3. That the following individuals are hereby authorized to grant the approvals set out in Clauses 1 and 2 hereof:
   
   a. Marcus Letourneau, Heritage Planner, Culture & Heritage Division, Culture & Recreation Department; and
   
   b. Robin Etherington, Manager, Culture & Heritage Division, Culture & Recreation Department; and or designate.

   (By-Law No. 2005-227; 2006-149)

4. Delegation of Authority:
   
   a. (i) Council’s and the Kingston Municipal Heritage Committee’s power and authority with respect to matters concerning works defined in Section 1 and Section 2 and provided for by Section 33. (16), Section 33.(17), Section 42.(16), and Section 42.(17) of the Ontario Heritage Act, R.S.O. 1990, Chapter 0.18, are hereby delegated to the Heritage Planner, or in the absence of the Heritage Planner, the Manager or designate, Culture & Heritage Division, Culture & Recreation Department.

   (By-Law No. 2005-227; 2006-149)

   (ii) Notwithstanding the provisions of Section 4 Clause 1 (i) of this By-law, City Council and the Kingston Municipal Heritage Committee shall retain all powers and authority under the Ontario Heritage Act, R.S.O. 1990, Chapter 0.18 where:

   1. The Heritage Planner, or, in the absence of the Heritage Planner, the Manager or designate Culture & Heritage Division, Culture & Recreation Department, at his/her sole discretion refers an application to the Kingston Municipal Heritage Committee

   (By-Law No. 2005-227; 2006-149)

   2. The Owner/Applicant requests in writing that the application be referred to the Kingston Municipal Heritage Committee.

   3. Any of the following persons: the Mayor; the Deputy Mayor; the Chair of the Kingston Municipal Heritage Committee; or, the Councilor representing the District in which the proposed works are located; can make a request in writing within five (5) business days of the date of the notice to the Heritage Planner, or, in the absence of the Heritage Planner, the Manager or designate, Culture & Heritage Division, Culture & Recreation Department, that the application be referred to the Kingston Municipal Heritage Committee. Upon receipt of such request, the Heritage Planner, or in the absence of the Heritage Planner, the Manager or designate, Culture & Heritage Division, Culture & Recreation Department, shall refer the matter to the Kingston Municipal Heritage Committee.

   (By-Law No. 2005-227; 2006-149)
(i) **Staff Approval:**

In exercising the delegated authority for the approval of specific works as defined in Clause 1 and Clause 2 of this By-law, the following procedures shall be followed:

1. Owners of designated properties complete an application for a heritage permit in accordance with the standard process.

2. Upon receipt of an application, staff will make an initial evaluation as to whether or not it fits into the category of works which can be approved by staff as outlined within Clause 1 and Clause 2 of this By-law.

3. If the work proposed is listed in Clause 1 and/or Clause 2, the following will occur:

   a. The individuals identified in Clause 4 (1) (ii) (3) will be contacted to inform them that an application falling under the category of tasks which can be delegated to staff has been received, and that any requests to have the application referred to the Kingston Municipal Heritage Committee should be provided in writing within 10 working days of the date of the notice.

   b. If the matter is not referred under the conditions of Clause 4, a written communication will be sent to the property owner which states one of the following:

      (i) The work can proceed as outlined within the application provided that the applicant provides photographs of the finished work for the property file. Any changes made to the plan post approval would require the resubmission of a new application.

      (ii) The application, as submitted, is not approved and that it will need to be resubmitted.

(By-law No. 2005-227)
4 b. “Procedures” cont’d:

4. The Heritage Planner, or a Culture & Recreation Department representative, at the next Kingston Municipal Heritage Committee meeting, will provide a report outlining the work approved by authorized staff.

(By-Law No. 2005-227; 2006-149)

5. The Kingston Municipal Heritage Committee shall include the staff report outlining the works approved by staff as part of its report to Council.

(By-law No. 2005-227)

5. The Building and Licensing Division is hereby authorized to accept any application for a Building Permit which has been approved by staff in accordance with Council's Delegation of Authority for Specific Approvals under the Ontario Heritage Act, R.S.O. 1990, C. O.18.

(By-law No. 2005-227)

6. This By-law shall come into force and take effect on the date of its passing.

(By-law No. 2005-227)
REVISED DELEGATED AUTHORITY TO STAFF

1. The following requests for a permit for a designated property under Parts IV or V of the *Ontario Heritage Act* are delegated to the Director:

a) The addition or removal of, or alterations to signage;

b) The replacement of eavestroughs and downspouts, and soffits and facia;

c) The replacement of exterior lights with a similar style and brightness;

d) The installation, repair or replacement of windows undertaken in conformity with the City’s Windows Policy (under review);

e) The installation or replacement of removable storm windows and doors;

f) Replacement of roofing where there is little or no change in colour, materials or design;

 g) Repair of existing features, including wall cladding or siding, dormers, cresting, cupolas, cornices, brackets, columns, balustrades, porches and steps, entrances, foundations, and decorative wood, metal, stone or brick, provided that the same or historically accurate types of materials are used;

h) Re-pointing of masonry undertaken in conformity with the City’s Masonry Guidelines;

i) Repainting part of or the whole building or structure in the same colour, or a historically-accurate colour;

j) The installation of mechanical and/or electrical equipment not visible from the street;

k) The repair or replacement of decks, porches, ramps, railings, steps, sidewalks and driveways;

l) The erection of accessory buildings and structures;

m) The replacement or repair of fences;

n) Revisions or amendments to previously approved permits; and

o) Situations requiring emergency repair which are considered to be a health and safety issue, or a security issue by the Director, the Chief Building Official or the Fire Chief.