

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Development and Real Estate Division

Report to: Chair and Members Planning and Economic Development Committee	Submitted by: Lee Ann Coveyduck General Manager
Date: September 30, 2005 File: Municipal Heritage Committee	Prepared by: David Cuming Ext. 1215

SUBJECT: By-law to Establish the City of Hamilton Municipal Heritage Committee (PED05127) (City Wide)

RECOMMENDATION:

- (a) That, pursuant to the provisions of the Ontario Heritage Act, the By-law establishing a Municipal Heritage Committee attached as Appendix A to Report PED05127, which has been prepared in a form satisfactory to Corporate Counsel, be enacted by Council.
- (b) That, pursuant to the provisions of the Ontario Heritage Act, the current members of the Hamilton LACAC (Municipal Heritage Committee) be appointed by Council to the Municipal Heritage Committee for the balance of their remaining terms.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

Amendments to the Ontario Heritage Act, 1990, enabled by the Government Efficiency Act, 2002 provided for the establishment by municipal councils of "municipal heritage committees" to advise on cultural heritage matters under the Ontario Heritage Act.

SUBJECT: By-law to Establish the City of Hamilton Municipal Heritage Committee (PED05127) (City Wide) – Page 2 of 4

These committees supersede the former advisory committees known as “Local Architectural Conservation Advisory Committees” or “LACACs”.

Accordingly, the attached by-law contained in Appendix A to Report PED05127 establishes the City’s municipal heritage committee including membership of the committee, its mandate and administration. Legal counsel has advised that as the proposed committee is essentially a new entity that it is appropriate to reappoint current sitting members.

BACKGROUND:

Amendments to the Ontario Heritage Act, 1990, enabled by the Government Efficiency Act, 2002 provided for the establishment by municipal councils of “municipal heritage committees” to advise on cultural heritage matters under the Ontario Heritage Act. These committees supersede the former advisory committees known as “Local Architectural Conservation Advisory Committees” or “LACACs”.

The amended legislation specifically provides in sections 28 and 29 of Part IV of the Act as follows:

“Municipal heritage committee

28. (1) The council of a municipality may by by-law establish a municipal heritage committee to advise and assist the council on matters relating to this Part, matters relating to Part V and such other heritage matters as the council may specify by by-law. 2002, c. 18, Sched. F, s. 2 (7).

Members

(2) The committee shall be composed of not fewer than five members appointed by the council. 2002, c. 18, Sched. F, s. 2 (7).

Continuation of old committees

(3) Every local architectural conservation advisory committee established by the council of a municipality before the day subsection 2 (7) of Schedule F to the *Government Efficiency Act, 2002* comes into force is continued as the municipal heritage committee of the municipality, and the persons who were the members of the local architectural conservation advisory committee immediately before that day become the members of the municipal heritage committee. 2002, c. 18, Sched. F, s. 2 (7).”

In enacting the amended legislation the Province of Ontario recognized that these special advisory committees had, since 1975, increasingly addressed matters other than the conservation of architecture. In order to recognize this changing role as well as the expanding and comprehensive nature of “cultural heritage” to include archaeology, built heritage and cultural heritage landscapes the Ontario Ministry of Culture initiated a series of amendments to the Ontario Heritage Act. These included changing the title of Part IV of the Act to address “Conservation of property of cultural heritage value or

SUBJECT: By-law to Establish the City of Hamilton Municipal Heritage Committee (PED05127) (City Wide) – Page 3 of 4

interest” rather than “Buildings of Architectural and/or Historic Value or Interest”. Municipal Heritage Committees were also introduced as the successors to LACACs.

Accordingly, the attached by-law contained in Appendix A to PED05127 establishes the City’s municipal heritage committee, its membership, mandate and administration. The by-law recognizes current practice by maintaining community and geographical representation throughout the City of Hamilton.

ANALYSIS OF ALTERNATIVES:

The Ontario Heritage Act prescribes that Municipal Heritage Committees “may” be established by municipal council. Where they are to be established this must be undertaken by by-law. As the creation of a Municipal Heritage Committee is not a statutory requirement for the management of a municipality’s cultural heritage resources Council could operate without an advisory committee and rely solely on Planning and Economic Development staff for advice.

This would create savings in staff time, essentially in support of committee activities, but would result in the loss of opportunity for valued community input into the management of cultural heritage resources. Accordingly, this alternative is not considered to be acceptable.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: Not applicable.

Staffing; The “new” committee would continue to be staffed at the current levels.

Legal: Legal staff has advised that it would be contrary to the intent of the new legislation for the “LACAC” name or terminology to formally continue in use in the implementing by-law. The sub-section of the Ontario Heritage Act specifically states that members of the “old” LACAC on the day the new Act comes into force are deemed to become members of the “new” municipal heritage committee. This MHC is not simply LACAC continued under another name but a new entity to be established by a new by-law. The proposed by-law is attached as Appendix A to Report PED05127 and has been prepared in a form satisfactory to Corporate Counsel.

POLICIES AFFECTING PROPOSAL:

All former municipal Official Plans provide for the management and conservation of local heritage resources and anticipate the advice of the former LACACs. The establishment of the new committee would be in keeping with these policies.

SUBJECT: By-law to Establish the City of Hamilton Municipal Heritage Committee (PED05127) (City Wide) – Page 4 of 4

CONSULTATION WITH RELEVANT DEPARTMENTS/AGENCIES:

The current municipal heritage committee is aware of the provisions of the legislation and its requirements. The draft by-law attached as Appendix A to Report PED05127 was provided for review and consideration by the Hamilton LACAC (Municipal Heritage Committee) at its meeting of August 25th 2005. The Committee received the staff memorandum and by-law without discussion.

CITY STRATEGIC COMMITMENT:

The creation of a municipal heritage committee is compatible with heritage conservation, community participation, sustainable development and the values of Vision 2020.

:DC
Attach. (1)

Authority: Item , Planning and Economic
Development Committee
Report 05- (PED05127)
CM:

Bill No.

CITY OF HAMILTON

BY-LAW NO. 05-

**To Establish a Municipal Heritage Committee and
Provide for the Appointment of Members Thereto**

WHEREAS section 28 of the *Ontario Heritage Act*, 1990, as amended, provides that the Council of a municipality may, by by-law, establish a municipal heritage committee to advise and assist the Council on all matters relating to Parts IV and V of the *Ontario Heritage Act*;

AND WHEREAS the Council of the City of Hamilton deems it advisable to establish such a committee and to provide for the appointment of members thereto;

NOW THEREFORE, the Council of the City of Hamilton enacts as follows:

1. That a municipal heritage committee is hereby established.
2. That the Committee shall consist of 13 members. Members shall be appointed by Council. Two (2) shall be Council members, four (4) members shall be drawn from City Wards 1 to 9 inclusive; one (1) each from Wards 10, 11, 12, 13; and one (1) from Wards 14 and 15. The remaining two (2) members are to be drawn from the City at large.
3. That the term of membership shall be for three years.
4. That the Council of the City of Hamilton may, by resolution, replace members as vacancies arise, or appoint from time to time such new members as it considers desirable.
5. That the municipal heritage committee shall, at its first meeting of each year, elect a Chair and Vice-Chair from among the municipal heritage committee members.

6. That the mandate of the committee shall be as follows:
 - a) To advise and assist City staff and Council on all matters relating to the designation of property, the review of heritage permit applications and other cultural heritage conservation measures under Parts IV and V of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, as amended;
 - b) To advise and assist City staff and Council in the preparation, evaluation and maintenance of a list of properties and areas worthy of conservation;
 - c) To advise and assist City staff and Council on any other matters relating to the conservation of listed properties or areas of cultural heritage value or interest;
 - d) To advise City Staff and Council on programs and activities to increase public awareness and knowledge of heritage conservation issues; and,
 - e) To prepare, by the 31st day of January each year, an annual report of the previous year's activities.
7. That the municipal heritage committee shall meet monthly or at the call of the Chair, and that the proceedings of the committee shall be subject to the City's Procedural By-law 03-301, as amended or replaced from time to time.
8. That the municipal heritage committee shall advise Council through the appropriate standing committee.
9. That the following by-laws and all amendments thereto of the former local municipalities establishing Local Architectural Conservation Advisory Committees under the Ontario Heritage Act,
 - Town of Ancaster By-law 76-86
 - Town of Dundas By-law 2858-76
 - Township of Flamborough By-law 76-66
 - Township of Glanbrook By-law 530-95
 - City of Hamilton By-law 76-057
 - City of Stoney Creek By-law 3166-90be repealed.

10. That this by-law shall come into force and take effect on the date of its passing.

PASSED AND ENACTED this day of , 2005.

MAYOR

CLERK