Minutes – Executive Policy Committee – May 11, 2016

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – May 10, 2016

Item No. 8 Historical Buildings and Resources – Prevention of Deterioration

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That amendments to the Vacant Buildings By-law No. 1/2008 and the Neighbourhood Liveability By-law No. 79/2010 that strengthen maintenance standards for heritage resources and other vacant or occupied buildings, be approved, in accordance with the draft amending By-law, attached as Appendix B.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Minutes – Executive Policy Committee – May 11, 2016

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – May 10, 2016

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

That Rule 10(3) of The Procedure By-law No. 50/2007 be suspended in order that the following item, which was received less than 96 hours preceding the committee meeting, be considered by Committee.

Carried

Moved by Councillor Orlikow,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On May 10, 2016, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

On April 12, 2016, the Standing Policy Committee on Property and Development, Heritage and Downtown Development granted a further extension of time to its May 10, 2016 meeting for the Winnipeg Public Service to report back, as directed by Council on May 27, 2014, on mechanisms to prevent heritage resources from being allowed to deteriorate by incurring structural and safety concerns (de facto demolition by neglect); by strengthening relevant policy and by-laws including but not limited to the Vacant Buildings By-law.

On March 8, 2016, the Standing Policy Committee on Property and Development, Heritage and Downtown Development granted a further extension of time to its April 12, 2016 meeting for the Winnipeg Public Service to report back, as directed by Council on May 27, 2014, on mechanisms to prevent heritage resources from being allowed to deteriorate by incurring structural and safety concerns (de facto demolition by neglect); by strengthening relevant policy and by-laws including but not limited to the Vacant Buildings By-law.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – May 10, 2016

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION (continued):

On February 16, 2016, the Standing Policy Committee on Property and Development, Heritage and Downtown Development granted a further extension of time to its March 8, 2016 meeting for the Winnipeg Public Service to report back, as directed by Council on May 27, 2014.

On November 2, 2015, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management granted a further extension of time of 90 days for the Winnipeg Public Service to report back as directed by Council on May 27, 2014.

On June 22, 2015, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management granted a further extension of time of 90 days, for the Winnipeg Public Service to report back on the matter.

On April 10, 2015, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management granted a further extension of time of 90 days for the Winnipeg Public Service to report back as directed by Council on May 27, 2014.

Further on April 10, 2015, Mr. J. Kiernan, Manager Urban Design, Planning, Property and Development Department, submitted Appendix A: Analysis of Building Maintenance Standards in Current City of Winnipeg By-laws, with respect to Historical Buildings and Resources – Prevention of Deterioration.

On January 26, 2015, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management granted an extension of time of 60 days for the Winnipeg Public Service to report back on the matter.

COUNCIL DECISION:

On May 27, 2014, Council concurred in the recommendation of the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management and adopted the following:

1. That a new Historical Resources By-law (draft attached as Appendix A to this Report) incorporating the features outlined in this Report and repealing the existing Historical Buildings By-law, be enacted and generally taking effect June 1, 2014.

2. That the fees set out in Appendix E be approved and come into effect on June 1, 2014, the effective date of the new By-law.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – May 10, 2016

DECISION MAKING HISTORY (continued):

COUNCIL DECISION (continued):

3. That a "Commemorative List" of Historic Resources created by the By-law be produced immediately as a means of recognizing those resources that merit commemoration without the imposition of any obligations or controls.

4. That the Director of Planning Property and Development be authorized to send letters to owners of all buildings currently on the Conservation List and Inventory of Historic Buildings, advising them of the status of their buildings and the process the City will follow with respect to them as the new By-law is adopted.

5. That the Public Service report back within 180 days on mechanisms to prevent heritage resources from being allowed to deteriorate by incurring structural and safety concerns (de facto demolition by neglect); by strengthening relevant policy and by-laws including but not limited to the Vacant Buildings By-law.

6. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

ADMINISTRATIVE REPORT

Title: Mechanisms to Prevent Heritage Resources from Demolition by Neglect

Critical Path: Standing Policy Committee on Property & Development, Heritage and Downtown Development – EPC – Council

AUTHORIZATION

Author	Department Head	CFO	CAO/COO
K. McKim	J. Kiernan	N/A	M. Jack COO

RECOMMENDATIONS

1. That Council enact amendments to the Vacant Buildings By-law No. 1/2008 and the Neighbourhood Liveability By-law No. 79/2010 that strengthen maintenance standards for heritage resources and other vacant or occupied buildings. The draft amending By-law is attached as Appendix B.
2. That the proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

Council, at its meeting held on May 27, 2014, concurred in the recommendations of Item 2 of the Report of the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management dated May 5, 2014 and passed the Historical Resources By-law No. 55/2014, which became effective June 1, 2014. Included in Council's decision was that the Public Service report back within 180 days on mechanisms to prevent heritage resources from being allowed to deteriorate resulting in structural and safety concerns (de facto demolition by neglect) by strengthening relevant policy and by-laws including but not limited to the Vacant Buildings By-law.

The Standing Policy Committee on Property & Development, Heritage and Downtown Development granted extensions of time, and the Winnipeg Public Service is now reporting back on the matter.

EXECUTIVE SUMMARY

Demolition by neglect is an on-going concern for our city's heritage resources. In some cases, a lack of general maintenance by building owners causes irreversible damage that leads to no other viable option but demolition, and as a result, a depletion of our heritage resources.

The Public Service is recommending amendments to the current property standards by-laws, which include the Vacant Buildings By-law No. 79/2010 and the Neighbourhood Liveability By-law No. 1/2008, that will help strengthen the enforcement of maintenance standards on heritage resources.

The Public Service is proposing to create administrative procedures for an inter-departmental (Community Services and Planning, Property & Development Departments) inspection and enforcement strategy for 'At-risk' heritage resources. In order to implement these procedures, additional human and/or financial resources may be required or reallocated and will be monitored over a twelve-month period. The Community Services Department will submit a subsequent report to the Standing Policy

Committee on Protection, Community Services and Parks that outlines the newly created administrative procedures and the additional human and/or financial resources that will be required in order to perform these duties and enforce the By-law amendments recommended by this Report.

There are currently approximately 30 heritage resources that have been observed as being 'At-Risk' of demolition by neglect due to deterioration, and over half of these are within the downtown boundary.

For the purposes of this report:
'heritage resources' *means both Listed Historical Resources and Nominated Resources;*

'Listed Resources' *means a resource/building that is on the List of Historical Resources under the Historical Resources By-law No. 55/2014; and*

'Nominated Resources' *means a resource/building that is nominated to be added to the List of Historical Resources under the Historical Resources By-law 55/2014.*

IMPLICATIONS OF THE RECOMMENDATIONS

The Vacant Buildings By-law no. 79/2010 will be amended as follows, applicable to all properties, including heritage resources, within the city of Winnipeg:

- the requirement to abate undue water from buildings will be revised for clarity; and
- the requirement to abate residue left by rodents, bird, or other pests from buildings will be added.

The Vacant Buildings By-law no. 79/2010 will be amended as follows, applicable only to Listed Historical Resources, within the city of Winnipeg:

- the requirement to heat the basements and/or crawl spaces of Listed Historical Resources that have been built using shallow foundations.

The Neighbourhood Liveability By-law No. 1/2008 will be amended as follows, applicable to all properties, including heritage resources, within the city of Winnipeg:

- the requirement to abate undue water from buildings will be added;
- the requirement to abate residue left by rodents, bird, or other pests from buildings will be added; and
- the requirement to maintain windows and doors in occupied non-residential buildings in condition of good repair will be added.

The Public Service is proposing to create administrative procedures for an inter-departmental inspection and enforcement strategy of all At-Risk heritage resources.

The Public Service will report back to the Standing Policy Committee on Protection, Community Services and Parks on the additional human and/or financial resources that will be required in order to perform the new inspection and enforcement duties.

HISTORY

Heritage resources illustrate a broad range of Winnipeg's cultures, ideas, and values. This facet of our identity provides us with variety in neighbourhood design and architecture, expresses various social values, and provides an invaluable legacy of resources that are distinctly our own. However, demolition by neglect is an on-going concern for our city's heritage resources. In some cases, a lack of general maintenance by building owners causes irreversible damage that leads to no other viable option but demolition, and as a result, a depletion of our heritage resources.

Council, at its meeting held on May 27, 2014, adopted Item 2 of the Report of the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management dated May 5, 2014 and passed By-law No. 55/2014, which became effective June 1, 2014. Included in Council's decision was that the Public Service report back within 180 days on mechanisms to prevent heritage resources from being allowed to deteriorate resulting in structural and safety concerns (de facto demolition by neglect) by strengthening relevant policy and by-laws including but not limited to the Vacant Buildings By-law.

Heritage Resources

For the purposes of this report:

***'heritage resources'** means both Listed Historical Resources and Nominated Resources;*

***'Listed Resources'** means a resource/building that is on the List of Historical Resources under the Historical Resources By-law No. 55/2014; and*

***'Nominated Resources'** means a resource/building that is nominated to be added to the List of Historical Resources under the Historical Resources By-law 55/2014.*

The Historical Resources By-law No.55/2014 regulates over 240 Listed Resources. Listed Resources are protected from demolition and alterations.

The Historical Resources By-law also regulates approximately 120 Nominated Resources, which are in the process of being evaluated for heritage status.

'At-Risk' Heritage Resources

Heritage resources may be fully occupied, partially occupied, or fully vacant. The levels and uses of occupied heritage resources may vary: some are occupied only on the main floor with their upper floors unoccupied; others are used for commercial storage purposes throughout; and some are fully occupied commercial and/or residential uses.

Vacant 'At-Risk' Heritage Resources: There are approximately 14 heritage resources that have been identified as being completely vacant. Out of these, approximately 6 are within the Exchange District National Historic Site (EDNHS), at least 7 are outside of the EDNHS but within the downtown boundary, and at least 1 is outside of the downtown boundary. Out of the 14 vacant heritage resources, 12 of these are Listed Resources.

Although vacant heritage resources are at risk of suffering from deterioration because they are unoccupied, they are inspected for compliance with the Vacant Buildings By-law on a regular, annual basis.

Occupied 'At-Risk' Heritage Resources: There are approximately 13 occupied or partially occupied heritage resources that have been observed to be 'At-Risk' from unmonitored deterioration. Out of these, approximately 5 are within the Exchange District National Historic Site (EDNHS), at least 5 are outside of the EDNHS but within the downtown boundary, and at least 4 are outside of the downtown boundary.

Fully occupied heritage resources pose less of a risk of suffering from deterioration because they are monitored by occupants. Partially-occupied heritage resources are at high risk of suffering from demolition by neglect because they are neither monitored by occupants nor inspected for compliance with the Neighbourhood Liveability By-law on a regular basis.

To summarize, out of the approximately 370 heritage resources city-wide, there are approximately 27 thus far that have been observed as being 'At-Risk' of demolition by neglect due to deterioration, and over half of these are within the downtown boundary. To date, the data on At-Risk heritage resources has been collected via observation by the Heritage Unit, other heritage groups, and/or other citizens. Other At-Risk heritage resources may exist but have yet to be identified. The number of At-Risk heritage resources may fluctuate over time, and the Public Service anticipates that it will likely increase.

Analysis of Current By-laws with respect to the Protection of Historical Resources

The Public Service has been in the process of consulting with members of the Historical Building and Resources Committee and other members of the Public Service including Community By-law Enforcement Services (Community Services Department), Development & Inspections (Property, Planning and Development Department), and Legal Services. Through this process, the Heritage Unit has created an analysis of current property standards by-laws in order to better understand the protections they afford to heritage resources and to identify deficiencies within these standards that may have an impact the condition of heritage resources.

Historical Resources By-law No. 55/2014
The Historical Resources By-law is aimed at protecting and conserving buildings, land, elements of a building or land, or areas of special architectural or historical interest. Under this By-law, Listed Resources are protected from demolition and alterations, and Nominated Historical Resources are protected from demolition. However, the Historical Resources By-law does not regulate property standards on heritage resources. Rather, obligations for maintenance standards are set out by other, existing property standards by-laws. These property standards by-laws include the Vacant Buildings By-law No. 79/2010, which applies to all vacant buildings, and the Neighbourhood Liveability By-law No. 1/2008, which applies to all occupied buildings (both commercial and residential).

Neighbourhood Liveability By-law No. 1/2008
Property standards for occupied buildings, even those that are substantially vacant, are set out in the Neighbourhood Liveability By-law. Occupied buildings, including heritage resources, are not inspected on an annual basis. However, an inspection of an occupied building may occur upon citizen complaint.

Vacant Buildings By-law No. 79/2010
Property standards for vacant buildings are set out in the Vacant Buildings By-law. Vacant buildings, including heritage resources, are inspected on annual basis for compliance with the standards set out in this By-law.

Summary of By-law Analysis (refer to Appendix A)
The property standards by-laws analysis concluded that under the current property standards by-laws, the main components of heritage resources, such as exterior walls, roofs, and foundations, are subject to maintenance standards such that they remain in good repair. In addition, there is an obligation to maintain floors, stairs, walls and other structural aspects of a building. Furthermore, all vacant buildings must either have windows and doors that are in good repair or must have openings that are boarded. And, there is a requirement for windows and doors in occupied residential properties to remain in good repair.

Among other things, current property standards by-laws address maintenance requirements for:

- Exterior surfaces
- Foundations and structural elements
- Floors, walls, and ceilings
- Doors and windows in vacant buildings or occupied residential buildings
- Guards and handrails

The Heritage Unit concluded that, with respect to the current property standards by-laws, deficiencies have been identified that may be contributing factors to the deterioration of heritage resources. Deficiencies within current property standards by-laws include:

For occupied buildings, under the Neighbourhood Liveability By-law No. 1/2008

1. no requirement to abate undue water from buildings, whether non-residential or residential;
2. no requirement to abate rodents, birds or other pests from non-residential buildings; and
3. no requirement to maintain in a condition of good repair windows and doors in non-residential buildings.

For vacant buildings, under the Vacant Buildings By-law No. 79/2010

4. no requirement to provide sufficient heat in basements and/or crawlspaces;
5. no requirement to abate rodents, birds or other pests from buildings; and
6. unclear requirement to abate undue water from buildings.

Discussion of Proposed Amendments to the Vacant Buildings By-law No, 79/2010 and the Neighbourhood Liveability By-laws No. 1/2008

Requirement to abate undue water from buildings
By-laws proposed to be amended: Vacant Buildings By-law & Neighbourhood Liveability By-law

For occupied buildings, the Neighbourhood Liveability By-law addresses the prevention of water from entering a building; however, there is no obligation in place to abate water from a building once it has entered. For vacant buildings, the Vacant Buildings By-law also addresses the prevention of water from entering a building as well as addresses the requirement to drain undue water to a catch basin. However, the Public Service would like to clarify this requirement so that undue water shall be removed by any means necessary.

The accumulation of water, such as standing water in unheated basements or pooling of water on wooden floors, can cause significant damage to structural components of buildings such as corrosion of steel supports, wood rot, and cracking of masonry or concrete due to freeze/thaw.

Under the proposed By-law amendments, owners of all buildings, including heritage resources, would be required to abate undue water.

Requirement to abate rodents, birds, or other pests
By-laws proposed to be amended: Vacant Buildings By-law & Neighbourhood Liveability By-law

Infestations by pests such as pigeons or mice are a common contaminant in heritage resources, especially those that are partially occupied or fully vacant because the infestation can remain unmonitored for significant periods of time. Although both the Vacant Buildings and Neighbourhood Liveability By-laws address the prevention of pests from entering a building, there are no obligations in place in either By-law to abate pests from vacant or occupied non-residential buildings, including heritage resources, once contaminated. The accumulation of pest residue has caused significant damage to heritage resources in the past.

Under the proposed By-law amendments, owners of all buildings, including heritage resources, would be required to abate rodents, birds, or other pests.

Requirement to provide sufficient heat in basements and/or crawlspaces of Listed Resources
By-law proposed to be amended: Vacant Buildings By-law

Although both the Vacant Buildings and the Neighbourhood Liveability By-laws require that foundations be maintained in a condition so as to prevent undue settlement, the Public Service would like to enhance the protection of Listed Resources by implementing a heating standard that prevents frost-heaving of shallow foundations.

The Vacant Buildings Bylaw does not require a minimum heating standard, and frost-heave is generally a problem in unheated, vacant buildings. Frost-heave is more common in buildings with shallow foundations because these types of foundations rely on support from the soil located close to the lowest part of the building that it supports. During a change of phase in moisture within the soil (freeze/thaw), displacement of the soil onto the foundation can cause undue upwards movement (heaving). If the situation is unmonitored, it can lead to an advanced state of damage. Heating to prevent freezing of the soil supporting any shallow foundations would minimize this effect. Under the revised Vacant Buildings By-law, owners of Listed Resources that have been built using shallow foundations would be required to sufficiently heat the basements and/or crawlspaces of these to prevent frost-heave.

Requirement to maintain windows and doors in occupied non-residential buildings in good condition
By-law amended: Neighbourhood Liveability By-law

For all buildings that are vacant, including heritage resources, the Vacant Buildings By-law requires owners to comply with the following: either maintain windows and doors in a condition of good repair and protected from the weather penetration; or board these so that they are secure and protected from weather penetration.

For all occupied residential buildings, the Neighbourhood Liveability By-law requires owners to comply with maintaining doors and windows in a condition of good repair.

However, for all occupied non-residential buildings, the Neighbourhood Liveability By-law does not set out any obligations for owners to maintain windows and doors in a condition of good repair. Unsealed windows and doors, can create issues with security as well as opportunities for water and pest infiltration which can cause significant damage to the integrity of a building, especially in partially occupied non-residential heritage resources such as storage warehouses.

Under the proposed amendment to the Neighbourhood Liveability By-law, owners of all buildings, including heritage resources, would be required to maintain doors and windows in non-residential buildings in a condition of good repair.

Inter-departmental Administrative Procedures

In order to better protect and to help prevent demolition by neglect of heritage resources, the Community Services Department's By-law Enforcement Services Division, in consultation with the Planning, Property and Development Department's Heritage Unit, is proposing to create administrative procedures for an inter-departmental inspection and enforcement strategy of all At-Risk heritage resources.

The administrative procedures will be a proactive approach to preventing demolition by neglect of heritage resources through early detection of deterioration and regular monitoring.

In order to implement the administrative procedures, additional human and/or financial resources may be required or reallocated and will be monitored over a twelve month period. The Community Services Department will report back to the Standing Policy Committee on Protection, Community Services and Parks to outline the administrative procedures and the additional human and/or financial resources that will be required in order to perform these duties.

FINANCIAL IMPACT

Financial Impact Statement Date: March 31, 2016

Project Name:

Mechanisms to Prevent Heritage Resources from Demolition by Neglect

COMMENTS:

There are no financial implications associated with these recommendations.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

CONSULTATION

In preparing this report there was consultation with:

- City of Winnipeg Historical Buildings and Resources Committee
- Community By-law Enforcement Services
- Legal Services

OURWINNIPEG POLICY ALIGNMENT

The recommendations in this report align with the following policies in OurWinnipeg:

Section 02 A Sustainable City, 02-3 Heritage:

Winnipeg has a rich and complex history. Our heritage resources are inseparably tied to our culture, identity, cultural perspective, collective consciousness and sense of place. In Winnipeg, heritage resources support and are represented by a distinct mix of cultures, ideas and values. This facet of our identity provides us with variety in neighbourhood design and architecture, expresses various social values, and provides an invaluable legacy of resources that are distinctly our own.

The conservation and reuse of existing buildings can also align with numerous sustainability objectives such as waste minimization, natural resource protection and compact urban form.

Direction 1: Plan for Heritage Conservation

- *Strive to eliminate disincentives to conservation*

Direction 2: Conserve, protect and celebrate the significant heritage resources that illustrate the broad range of Winnipeg's heritage values.

- *Recognize the importance of a broad range of tangible heritage resources throughout the city that illustrate a unique sense of place and community pride.*
- *Identify, designate, and protect the City's most significant heritage resources.*

Direction 3: Provide leadership in heritage conservation that links to broader civic goals of economic development, sustainability, and neighbourhood planning.

- *Link heritage conservation to sustainable development initiatives, including economic, environmental, and social initiatives*
- *Develop heritage stewardship policies that will allow the City to act as a leader in heritage conservation initiatives.*
- *Engage the community in developing long-term heritage resource stewardship strategies.*

Direction 4: Conserve downtown's rich legacy of heritage resources that provide significant and sustainable development opportunities.

Direction 5: Enhance the viability of the Exchange District National Historic Site.

Direction 6: Plan for the sustainable development of healthy neighbourhoods based on their particular historic identity and character.

- *Encourage the sustainable reuse of existing building stock and historic infrastructure.*

Section 03-2 Vitality:

Direction 1: Strive to eliminate derelict buildings.

- *Identify, monitor and maintain an accurate and comprehensive inventory of vacant and derelict buildings, with emphasis placed on communities with higher concentration of these properties.*
- *Maintain an active approach to resolving by-law infractions regarding permits and property condition.*
- *Respond to community requests for enforcing liveability property standards and derelict buildings in a cooperative and timely way.*

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Urban Design
Prepared by:	R. Ricci
Date:	April 1, 2016
File No.:	O:\Reports Directive\Planning and Land Use\Heritage\2016 Reports\Mechanisms to Prevent Heritage Resources from Demolition by Neglect.doc

Appendix A: Analysis Matrix of Building Maintenance Standards in Current City of Winnipeg By-laws

List of By-laws Examined:
Vacant Buildings By-law No. 79/2010 (VBB)
Neighbourhood Liveability By-law No. 1/2008 (NLB)
Historical Resources By-law No. 55/2014 (HRB)

Legend:
✓ Maintenance standards imposed
X No maintenance standards imposed

Building or Resource Components	Current By-laws				*VBB/NLB Proposed*
	VBB	NLB Commercial	NLB Residential	HRB	
Exterior					
Walls	✓	✓	✓	X	✓
Roofs	✓	✓	✓	X	✓
Foundations	✓	✓	✓	X	✓
Doors & Windows	✓	X	✓	X	✓
Porches & Stairs	✓	✓	✓	X	✓
Fences & gates	✓	✓	✓	X	✓
Yards	✓	✓	✓	X	✓
Interior					
Walls	✓	✓	✓	X	✓
Floors	✓	✓	✓	X	✓
Ceilings	✓	✓	✓	X	✓
Stairs	✓	✓	✓	X	✓
Guards	✓	✓	✓	X	✓
Balustrades	✓	✓	✓	X	✓
Handrails	✓	✓	✓	X	✓
Heating or other means to prevent Frost-jacking of Shallow-Footing Foundations	X	✓	✓	X	✓
Pest Abatement	X	X	✓	X	✓
Water Abatement	✓	X	X	X	✓

Appendix B: Draft Amending By-law