Minute No. 324
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – March 15, 2021

Item No. 8 Review of Changes between Bill 48 and Bill 37

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development, as amended, and adopted the following:

1. That the positions as outlined by the Public Service in Appendices A and B to this report be endorsed by Council, with the following amendments:

    A. In Appendix B, Section 1- Creation of a Capital Planning Region, under 'City of Winnipeg Position', delete "The City of Winnipeg has no concerns with the Section" and replace with "The City of Winnipeg ensure that it's voting weight on the Capital Planning Region Board appropriately reflects Winnipeg's status as the member municipality with the largest population in the Capital Planning Region.

    B. In Appendix B, Section 3 – Funding the Capital Planning Region, under 'City of Winnipeg Position', add the sentence "Any City of Winnipeg operating support for the Capital Planning Region be subject to annual Council approval as part of the budget process."

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

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – March 15, 2021

DECISION MAKING HISTORY:

Moved by Councillor Gilroy,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be adopted.

In amendment,

Moved by Councillor Gillingham,
Seconded by Councillor Gilroy,

WHEREAS Bill 37, The Planning Amendment and City of Winnipeg Charter Amendment Act proposes the creation of a Capital Planning Region;

AND WHEREAS the creation of an additional layer of bureaucracy in the Capital Planning Region will require funding to operate;

AND WHEREAS Bill 37 contemplates the member municipalities agreeing on the funding that each will contribute to meet the expenses of the Capital Planning Region, or in the absence of agreement the minster must prescribe each member's share of this funding;

AND WHEREAS any annual funding support provided to the Capital Planning Region by the City of Winnipeg should be considered in an open and transparent way as part of the City's annual budget process;

THEREFORE BE IT RESOLVED THAT Recommendation 1 of Item 8 of the Report of the Standing Policy Committee on Property and Development, Heritage and Downtown Development dated March 15, 2021 be amended adding the following immediately after "be endorsed by Council":

"with the following amendments:

A. In Appendix B, Section 3 – Funding the Capital Planning Region, under 'City of Winnipeg Position', add the sentence "Any City of Winnipeg operating support for the Capital Planning Region be subject to annual Council approval as part of the budget process."

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – March 15, 2021

DECISION MAKING HISTORY (continued):

In amendment,
Moved by His Worship Mayor Bowman,
Seconded by Councillor Rollins,

WHEREAS Bill 37, The Planning Amendment and City of Winnipeg Charter Amendment Act, proposes significant changes to the land use planning appeal process and establishes the Capital Planning Region (CPR) Board for the Winnipeg Metropolitan Region;

AND WHEREAS the Provincial Government has recently introduced Bill 64 which eliminates 37 school divisions and replaces them with 15 regional entities that report to a centralized, unelected education authority which will ultimately reduce local representation from Winnipeg compared to other regions of the Province, despite Winnipeg having a much larger population than the other regions;

AND WHEREAS the provisions of Bill 37 (10.21(1)E) states that the Minister may make regulations establishing the voting structure for the CPR including providing the votes of the regional member municipalities be weighted in approximate proportion to their relative population, land values, degree of development activities or any other factor considered relevant by the Minister;

AND WHEREAS the City of Winnipeg Council's 2 representatives on the Winnipeg Metropolitan Region are currently working collaboratively with the representatives of other member municipalities on the regional plan (Plan2050) for the CPR;

AND WHEREAS as the municipality with the vast majority of residents within the CPR it is imperative that the City of Winnipeg's voting weight on the newly established CPR Board be reflective of its status as the municipality with the most residents in the CPR;

THEREFORE BE IT RESOLVED THAT Recommendation 1 of Item 8 of the Report of the Standing Policy Committee on Property and Development, Heritage and Downtown Development dated March 15, 2021 be amended by deleting the period after "Council" and replacing with the following amendments:

1. In Appendix B, Section 1- Creation of a Capital Planning Region, under 'City of Winnipeg Position', delete "The City of Winnipeg has no concerns with the Section" and replace with "The City of Winnipeg ensure that it's voting weight on the Capital Planning Region Board appropriately reflects Winnipeg's status as the member municipality with the largest population in the Capital Planning Region."

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – March 15, 2021

DECISION MAKING HISTORY (continued):

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

Moved by Councillor Mayes,

That Rule 20 of the of the Procedure By-law be suspended to Appendix A. and B. in Recommendation 1. to be voted on separately.

Councillor Mayes called for the called for the yeas and nays, which were as follows:

Yea: Councillors Eadie, Klein, Lukes, Mayes, Nason, Schreyer and Sharma 7

Nay: His Worship Mayor Bowman, Councillors Allard, Browaty, Chambers, Gillingham, Gilroy, Orlikow, Rollins and Santos 9

and the motion was declared lost not having achieved the required two-thirds majority of the members present at Council, in accordance with rule 4(1) of the Procedure By-law 50/2007.

The motion for the adoption of the amendment moved by His Worship Mayor Bowman and seconded by Councillor Rollins, was put.

His Worship Mayor Bowman called for the called for the yeas and nays, which were as follows:

Yea: His Worship Mayor Bowman, Councillors Allard, Browaty, Chambers, Eadie, Gillingham, Gilroy, Lukes, Mayes, Orlikow, Rollins Santos, Schreyer and Sharma 14

Nay: Councillors Klein and Nason 2

and the motion for the adoption of the amendment moved by His Worship Mayor Bowman and seconded by Councillor Rollins was declared carried.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – March 15, 2021

DECISION MAKING HISTORY (continued):

The motion for the adoption of the amendment moved by Councillor Gillingham and seconded by Councillor Gilroy, was put.

His Worship Mayor Bowman called for the called for the yeas and nays, which were as follows:

Yea: His Worship Mayor Bowman, Councillors Allard, Browaty, Chambers, Eadie, Gillingham, Gilroy, Lukes, Mayes, Orlikow, Rollins Santos, Schreyer and Sharma 14

Nay: Councillors Klein and Nason 2

and the motion for the adoption of the amendment moved by Councillor Gillingham and seconded by Councillor Gilroy was declared carried.

The motion for the adoption of the item, as amended, was put.

His Worship Mayor Bowman called for the yeas and nays which were as follows:

Yea: His Worship Mayor Bowman, Councillors Allard, Browaty, Chambers, Eadie, Gillingham, Gilroy, Lukes, Mayes, Orlikow, Rollins Santos, Schreyer and Sharma 14

Nay: Councillors Klein and Nason 2

and the motion for the adoption of the item, as amended, was declared carried.

Downtown Development – March 15, 2021

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 17, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On March 15, 2021, 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.

COUNCIL DECISION:

On January 28, 2021, Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the Winnipeg Metropolitan Region (WMR) be requested to publicly release draft Plan20-50 and allow all municipal Councils in the WMR an opportunity to review and formally approve draft Plan20-50 before the WMR sends it to the Province of Manitoba for their consideration.

2. That the Winnipeg Public Service be directed to report back to Council within 60 days with a report on Bill 37 that identifies major changes from its predecessor (Bill 48) and any aspects of Bill 37 that may require formal direction or input from Winnipeg City Council.

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

ADMINISTRATIVE REPORT

Title: Review of Changes between Bill 48 and Bill 37

Critical Path: Standing Policy Committee on Property and Development, Heritage and Downtown Development - Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Pittet	J. Kiernan	N/A	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

On November 2, 2020, the Province of Manitoba gave first reading to Bill 37 - *The Planning Amendment and City of Winnipeg Charter Amendment Act* which reintroduced the former Bill 48 with a number of amendments.

On January 28, 2021, Council directed the Winnipeg Public Service to report back within 60 days with a report on Bill 37 that identifies major changes from its predecessor (Bill 48) and any aspects of Bill 37 that may require formal direction or input from Winnipeg City Council.

In the body of the report, the Public Service has outlined the major changes in Bill 37 from its predecessor, Bill 48. Appendices A and B contain summaries of all amendments of consequence to *The City of Winnipeg Charter* and *The Planning Act* respectively as well as implications and a City of Winnipeg position on each amendment.

It is important to note that the Public Service has identified City of Winnipeg “positions” not to predetermine Council’s stance but to provide a starting point to facilitate Council providing formal direction on the many elements of Bill 37. It is anticipated that Council will either concur with the positions as recommended by the Public Service or provide further direction that will ultimately be communicated to the Province of Manitoba.

Members of Council and the Public Service participate on a number of working groups and public bodies, including the Association of Manitoba Municipalities and the Winnipeg Metro Region, that are currently reviewing/discussing Bill 37, so it will be advantageous for all to have a Council-endorsed position on the Bill.

RECOMMENDATIONS

1. That the positions as outlined by the Public Service in Appendices A and B to this report be endorsed by Council.

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

On January 28, 2021, Council directed the Winnipeg Public Service to report back to Council within 60 days with a report on Bill 37 that identifies major changes from its predecessor (Bill 48) and any aspects of Bill 37 that may require formal direction or input from Winnipeg City Council.

IMPLICATIONS OF THE RECOMMENDATIONS

Council endorsement of the recommendations will provide a clear position on Bill 37 - *The Planning Amendment and City of Winnipeg Charter Amendment Act*.

HISTORY/DISCUSSION

On May 8, 2019, by way of Manitoba Order in Council 157/2019, the Treasury Board was assigned to carry out a review of policies and processes for land use and development under the authority of Manitoba statutes and municipal by-laws, including zoning decisions and the issuance and administration of permits.

On May 28, 2019, The Treasury Board Secretariat released the “Planning, Zoning and Permitting in Manitoba – Findings Report” (the “PZP Report”). The PZP Report, with few specific details or references, included an analysis of current systems in Manitoba, cross jurisdictional best practices, and an assessment of how permitting timeframes impact economic investment within the province. The PZP Report outlined the Province’s interest in further consultation and provincial involvement in helping to improve planning, zoning and permitting processes in Manitoba.

On March 19, 2020, the Legislative Assembly of Manitoba gave first reading to Bill 48 - *The Planning Amendment and City of Winnipeg Charter Amendment Act*.

On May 29, 2020, Council considered a report on Bill 48 from the Public Service and adopted the following:

1. That the Public Service be directed to attend the Provincial Standing Committee Hearing for Bill 48 to present City of Winnipeg concerns and seek clarification on the content of the Bill and anticipated Regulations.

2. That the Chief Administrative Officer request the Province of Manitoba include the City of Winnipeg in active collaboration to ensure appropriate amendments to Bill 48 are considered in order to minimize increased costs and disruption to operations and customers.

3. That City Council formally request the Province of Manitoba consider amendments to Bill 48 in order to:

    A. Provide local residents impacted by a decision, in addition to property owners, with the right of appeal to the Municipal Board on municipal land use decisions;

    B. Provide criteria for the Municipal Board to consider in adjudicating appeals, including whether an application is in compliance or non-compliance with local plans, policies and by-laws;

    C. Ensure that the required timeframes for decisions on the applications covered in the Bill are fair and reasonable for all stakeholders;

    D. Maintain the role and autonomy of local governments by providing them with an opportunity to re-visit and make new decisions on land use applications, based on the findings of the Municipal Board made following an appeal; and

    E. To provide further detail related to the sharing of costs, revenues and other benefits associated with, but not limited to, land use planning, infrastructure investment, service sharing and economic development by municipalities and First Nations governments within the Capital Planning Region.

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

On October 6, 2020, having only received first reading, Bill 48 was deemed defunct when the Legislative Session was prorogued by Order-in-Council.

On November 2, 2020, the Province of Manitoba gave first reading to Bill 37 - *The Planning Amendment and City of Winnipeg Charter Amendment Act* which reintroduced the former Bill 48 with a number of amendments.

The Public Service has met with the Province on several occasions to review both Bill 48 and Bill 37 and, in those meetings, the Public Service identified concerns and flaws with the Legislation. It is acknowledged that, although Bill 37 includes much of the same content as its predecessor, some positive changes have been made that provide more clarity and consistency.

The most notable changes in Bill 37 are summarized in the next section of this report. Appendices A and B contain summaries of all amendments of consequence to *The City of Winnipeg Charter* and *The Planning Act* respectively as well as implications and a City of Winnipeg position on each amendment.

There remain a number of smaller, seemingly insignificant changes that the Public Service will continue to discuss and monitor. One example is in new Section 246(1.4) wherein it states that the designated employee must ensure that a completed permit application is forwarded to Council as soon as reasonably practicable. The Public Service identified this obvious error (i.e. Council does not consider permit applications) in its initial meetings with the Province in early 2020 but it was not corrected in Bill 37. The City will continue to request that this item be corrected.

Notable *Planning Act* Changes (from Bill 48 to Bill 37)
(References cite Planning Act Sections)

Planning Regions

- Section 9(2) now requires that the Minister consult with the council of each municipality when determining whether to establish a planning region.
- Section 10.2(2) now provides clarification that the Capital Region Planning board may only acquire land when for the purpose of implementing a regional plan.
- New Section 10.14(1) requires that member municipalities must agree on the amount or proportion of funding that each member municipality is to contribute to meet the expenses of the planning region. Per new Section 10.14(2), the Minister may prescribe proportion of funding if agreement is not reached.
- New Section 174.1 requires Planning Regions, boards and councils to provide written reasons to reject proposals for amendments to development plan, secondary plan or zoning by-laws, as well as applications for conditional uses and subdivisions.

Planning Act:

- Section 74(1) now allows for a hearing on a zoning by-law to be done 'before or after' first reading.
- Section 151.0.3(3) indicates that the deadline to appeal decisions on a development agreement has been reduced from 90 days to 30 days. This applies to municipalities outside of the City of Winnipeg.

Notable *City of Winnipeg Charter Act* Changes (from Bill 48 to 37)
(References cite City of Winnipeg Charter Sections)

Adoption of Secondary Plans

- Section 234(3) is amended to include amendments to secondary plans

Secondary Plan not a pre-condition

- A new Section (235.1) is added that states that no decision on an application made under this part may be delayed, and no permit may be withheld, pending the preparation or adoption of a secondary plan or an amendment to a secondary plan.

Zoning Appeals

- New Section 236 provides alignment with similar provisions in *The Planning Act* to allow City of Winnipeg residents to appeal re-zonings (and secondary plan by-laws).

Appeals

- The commencement period to trigger appeals is now set at 30 days following expiry of time limits or notice of a decision; the previous Bill had inconsistent appeal periods of 30, 60 or 90 days.

Review of Act

- New provisions added that require the Minister, within three years after the coming into force, to undertake a comprehensive review of the amendments to the Act that includes public representation.
- Within one year after the review is undertaken, the Minister must table a report on the review.

FINANCIAL IMPACT

Financial Impact Statement Date: February 17, 2021

Project Name:

Review of Changes between Bill 48 and Bill 37

COMMENTS:

There are no direct financial implications associated with the recommendations contained in this report. That said, should Bill 37 receive Royal Assent, there will be direct and potentially significant financial implications to the City. These may include, but will not be limited to, a share of Capital Region Planning expenses, having to pay costs of appeals adjudicated by the Municipal Board, increased staff resources to ensure application timelines are met, etc.

Mike McGinn Feb. 17, 2021

Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

N/A

OURWINNIPEG POLICY ALIGNMENT

01-3 Prosperity – Direction 1:
Provide Efficient and focused Civic Administration and Governance

01-3 Prosperity – Direction 2:
Provide a Predictable and Cost-Effective Business Environment that Promotes Investment and Growth

01-3 Prosperity – Direction 3
Maintain Strong Intergovernmental Cooperation

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Marc Pittet, James Platt and Catherine Peters
Date: February 22, 2021

Attachments:

Appendix A – Changes to *The City of Winnipeg Charter Act*

Appendix B – Changes to *The Planning Act*