



## REQUEST FOR A DECISION

City Council  
December 13, 2021

**To:** Her Worship Mayor Kate Rogers and Members of City Council

**From:** Ken Forrest, Director of Planning and Development

**Date:** December 08, 2021

**Title:** Appointment of Building Inspectors and Heritage Officer

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### **ISSUE:**

As a result of changes to provincial legislation, resolutions of City Council are being sought to appoint building inspectors and an Acting Heritage Officer who will have authority to fulfill the responsibilities of these positions.

### **RECOMMENDATION(S):**

#### **A. Recommendation:**

It is recommended that the following resolutions be adopted by City Council: Resolution 1 WHEREAS the Province of New Brunswick has enacted provincial legislation such as, but not limited to, the Community Planning Act, the Local Governance Act, the Heritage Conservation Act and the Building Code Administration Act, and regulations associated thereto, which necessitate changes to previous appointments; AND WHEREAS the Council of the City of Fredericton deems it desirable to rescind appointments made under repealed provincial legislation; NOW THEREFORE BE IT RESOLVED THAT the Council of the City of Fredericton hereby rescinds the Resolutions adopted on November 28, 2011 appointing Michael D. Pospolita, and Troy R. Jones as Building Inspectors, pursuant to Section 74(3) of the Municipalities Act; and BE IT FURTHER RESOLVED THAT the Council of the City of Fredericton hereby rescinds the following Resolutions adopted on January 24, 2011 and August 22, 2011 appointing Jason M. Madore and Michael T. Sullivan as Building Inspectors pursuant to Section 74(3) of the Municipalities Act; and BE IT FURTHER RESOLVED THAT the Council of the City of Fredericton hereby rescinds the Resolution adopted on November 13, 2012 appointing Daniel Tardif as a by-law enforcement officer, pursuant to Section 14 of the Police Act. BE IT FURTHER RESOLVED THAT the Council of the City of Fredericton hereby rescinds the Resolution adopted on November 13, 2012 appointing Mark McKay as a Building Inspector, pursuant to Section 74(3) of the Municipalities Act. Resolution 2 WHEREAS the Building Code Administration Act assigns responsibilities to a building inspector appointed as an officer pursuant to the Local Governance Act; AND WHEREAS the Local Governance Act provides authority to City Council to appoint officers that are necessary for the administration of the local government; NOW THEREFORE BE IT RESOLVED THAT the Council of the City of Fredericton hereby appoints Michael D. Pospolita as the Chief Building Inspector, effective immediately, pursuant to Section 71(2) of the Local Governance Act; and BE IT FURTHER RESOLVED THAT this appointment shall continue until Michael D. Pospolita ceases to be an employee of the City of Fredericton, or until this Resolution is rescinded by City Council, whichever comes first. Resolution 3 WHEREAS the Local Governance Act provides City Council with the power to appoint an acting officer to exercise the responsibilities of the officer if the officer is absent due to illness or any other reason; NOW THEREFORE BE IT RESOLVED THAT the Council of the City of Fredericton hereby appoints Troy R. Jones as Acting Chief Building Inspector, in the absence or illness of the Chief Building Inspector, effective immediately, pursuant to Section 73 of the Local Governance Act; and BE IT FURTHER RESOLVED THAT this appointment shall continue until Troy R. Jones ceases to be an employee of the City of Fredericton, or until this Resolution is rescinded by City Council, whichever comes first. Resolution 4 WHEREAS the Local Governance Act provides authority to City Council to appoint by-law enforcement officers for the local government; AND WHEREAS the Building Code Administration Act assigns responsibilities to individuals who have the primary responsibility for the enforcement of by-laws with respect to building and construction; NOW THEREFORE BE IT RESOLVED THAT the Council of the City of Fredericton hereby appoints Michael D. Pospolita, Micheal T. Sullivan, Jason M. Madore, Troy R. Jones, Mark McKay and

Liam Toner as by-law enforcement officers, effective immediately, pursuant to Section 72 of the Local Governance Act to administer and enforce the following by-laws within the territorial boundary of the City of Fredericton:-By-law No. R-1, A Building By-law, and amendments thereto; and-By-law No. R-2, Maintenance and Occupancy Standards for Residential Properties, and amendments thereto. BE IT FURTHER RESOLVED THAT this appointment shall continue until Michael D. Pospolita, Micheal T. Sullivan, Jason M. Madore, Troy R. Jones, Mark McKay and Liam Toner cease to be employees of the City of Fredericton, or until this Resolution is rescinded by City Council, whichever comes first. Resolution 5 WHEREAS the Local Governance Act provides authority to City Council to appoint by-law enforcement officers for the local government; NOW THEREFORE BE IT RESOLVED THAT the Council of the City of Fredericton hereby appoints Daniel Tardif as a by-law enforcement officer, effective immediately, pursuant to Section 72 of the Local Governance Act to administer and enforce the following by-laws within the territorial boundary of the City of Fredericton:-By-law No. R-1, A Building By-law, and amendments thereto;-By-law No. R-2, Maintenance and Occupancy Standards for Residential Properties, and amendments thereto;-By-law No. R-5, A By-law Respecting the Plumbing Trade, and amendments thereto;-By-law No. W-2, A By-law Relating to the Water and Sewer System, and amendments thereto; and-By-law No. W-4, A By-law to Regulate the Collection and Disposal of Garbage and Other Material, and amendments thereto. BE IT FURTHER RESOLVED THAT this appointment shall continue until Daniel Tardif ceases to be an employee of the City of Fredericton, or until this Resolution is rescinded by City Council, whichever comes first. Resolution 6 WHEREAS the Heritage Conservation Act ("Act") provides authority to a municipal council to appoint a heritage officer and the Act assigns responsibilities for implementation of the Act and associated municipal heritage by-laws to a heritage officer; AND WHEREAS By-law No. L-4, City of Fredericton Heritage Preservation By-law identifies and assigns responsibilities to a community heritage officer consistent with the Act; AND WHEREAS Fredericton City Council deems it desirable to appoint an acting heritage officer/community heritage officer consistent with the Act; NOW THEREFORE BE IT RESOLVED THAT the Council of the City of Fredericton hereby authorizes and appoints Ken Forrest as Acting Heritage Officer/Acting Community Heritage Officer, in the absence or illness of the Heritage Officer, Community Heritage Officer, effective immediately, pursuant to Section 54 of the Heritage Conservation Act; and BE IT FURTHER RESOLVED THAT this appointment shall continue until Ken Forrest ceases to be an employee of the City of Fredericton, or until this Resolution is rescinded by City Council, whichever comes first.

### **BACKGROUND & DISCUSSION:**

The Planning and Development Department has responsibility to provide regulatory and advisory services pursuant to provincial statutes including the *Building Code Administration Act*, *Community Planning Act*, and the *Heritage Conservation Act*. Each of these pieces of provincial legislation provides for the appointment of an officer that is assigned responsibilities from the provincial legislation as well as municipal by-laws adopted pursuant to provincial legislation.

The *Community Planning Act* provides authority for the Development Officer to sub-delegate authority under the Act and associated by-laws at his/her prerogative. Similar sub-delegation powers are not provided by the *Building Code Administration Act* and the *Heritage Conservation Act*. As a result, resolutions of Council are required to appoint individuals that may act in the absence of the building inspector and the heritage officer.

This report recommends that the Senior Building Inspector, Troy Jones, be appointed to act in the absence of the Manager of Building Inspection with the ability to exercise those responsibilities outlined in the *Building Code Administration Act* and the *Building By-law*.

This report also recommended that the Director of Planning and Development, Ken Forrest, be appointed to act in the absence of the Manager of Heritage and Urban Design with the ability to exercise those responsibilities outlined in the *Heritage Conservation Act* and the *Heritage Preservation By-law*. The *Heritage Preservation By-law* already assigns this responsibility to the Director of Planning and Development but the *Heritage Conservation Act* identifies the need for a resolution of Council as well.

- **FINANCIAL:** The Department has determined that there are no financial considerations associated with this matter. The City Treasurer was not specifically consulted with respect to this administrative report.

- **LEGAL:** The *Building Code Administration Act* is the most recent change in provincial legislation that will require municipalities to ensure that appropriate appointments are in place under the *Local Governance Act* and building by-laws are adopted “to prescribe standards for the building, locating or relocating, demolishing, altering, structurally altering, repairing or replacing ... of a building.”
- **COMMUNICATIONS:** The Department/Division has determined that there is no communication considerations associated with this matter. Neither Corporate nor Strategic Communications was consulted with respect to this administrative report.

**SPOKESPERSON:** Ken Forrest, Director of Planning and Development

Prepared by: Ken Forrest, MCIP RPP  
Director of Planning and Development

Approved by: Steven Hart  
Chief Administrative Officer