

1988 April 28

THE CORPORATION OF THE DISTRICT OF BURNABY
HERITAGE ADVISORY STUDY COMMITTEE

HIS WORSHIP, THE MAYOR
AND ALDERMEN

REPORT OF THE HERITAGE ADVISORY STUDY COMMITTEE

MADAM/GENTLEMEN:

RECOMMENDATIONS:

It is recommended that:

1. Council establish the Burnaby Heritage Advisory Committee as outlined in the attached Committee report.
2. The Heritage Advisory Committee terms of reference include the powers authorized under Section 111 of the attached Heritage Conservation Act.
3. The composition of the Heritage Advisory Committee include the membership outlined in Section 2 of the attached report.
4. The reporting procedure for the Heritage Advisory Committee be approved as outlined in Section 3 of the attached report and reviewed in one (1) years time.
5. The appropriate bylaw be brought forward to establish a Heritage Advisory Committee as permitted under the Heritage Conservation Act.
6. The Burnaby Historical Society, Burnaby Village Museum Association, Simon Fraser University and the Architectural Institute of British Columbia be contacted and asked to nominate potential members for the Committee for the consideration of Council.
7. The Mayor invite nominations for the two persons from the community at large, having knowledge of local history, local architecture, or building conservation and restoration for the consideration of Council with such responses to be received by 1988 May 31.
8. The Heritage Advisory Study Committee now be discharged of its duties.

REPORT

On 1986 December 15, the Heritage Advisory Study Committee submitted to Council a report on the establishment of a Burnaby Heritage Advisory Committee. Council, at this time, amended the Committee's report to read as follows:

INTERNAL DISTRIBUTION:

- :- AGENDA 1988 May 02
- :- COPY - MUNICIPAL MANAGER
- DIRECTOR PLANNING AND BLDG. INSP.
- DIRECTOR RECREATION AND CULT. SERV.

REPORT
REGULAR COUNCIL MEETING
1988 MAY 02

"THAT Council establish the Burnaby Heritage Advisory Committee and that such Committee function under the responsibility of the Director Planning and Building Inspection."

Your Committee, in considering this motion at the 1988 April 27 meeting, recommended that it be amended to read as follows:

1. "THAT Council establish the Burnaby Heritage Advisory Committee as outlined in the Committee's report of 1988 April 28."

This motion appears as recommendation No. 1.

Arising out of the appearance of a delegation before Council on 1988 February 15, Council adopted the following motions regarding the establishment of a Heritage Advisory Committee:

1. "THAT the request to establish a Burnaby Heritage Advisory Committee be referred to the Burnaby Heritage Advisory Study Committee; and
2. THAT the Burnaby Heritage Advisory Study Committee be permitted to establish the terms of reference, method of reporting and committee composition for the Burnaby Heritage Advisory Committee and report same back to Council."

The Heritage Advisory Study Committee met on Wednesday, 1988 April 27 to review these matters and arising out of this meeting your Committee presents recommendations 1 through 8 for Council's consideration.

Respectfully submitted,



Alderman D.P. Drummond
Chairman

Alderman R.G. Begin
Member

Alderman J. Young
Member

THE CORPORATION OF THE DISTRICT OF BURMABY

TO: HERITAGE ADVISORY STUDY COMMITTEE 1988 APRIL 27
FROM: DIRECTOR PLANNING & BUILDING INSPECTION
SUBJECT: **PROPOSED HERITAGE ADVISORY COMMITTEE**

As requested we have reviewed and brought forward some of the previous work pertaining to the establishment of a Heritage Advisory Committee. Three things are required to be addressed by the Heritage Advisory Study Committee:

1. Terms of Reference.
2. Composition of a Heritage Advisory Committee (H.A.C.).
3. Reporting procedure.

For discussion we provide the following recommendations:

1.0 RECOMMENDED TERMS OF REFERENCE FOR THE HERITAGE ADVISORY COMMITTEE

To make recommendations to Council on any matters coming within Sections 11 and 14 of Part III of the attached Heritage Conservation Act.

A bylaw establishing a Heritage Advisory Committee accountable to Council as provided for in the Heritage Conservation Act should specify (as most examples do) that within its general terms of reference, the Committee would only undertake projects and make recommendations to Council on matters specifically referred to it by Council; the Committee could take the initiative, however, by proposing to Council that certain matters be referred to the Committee.

2.0 RECOMMENDED COMPOSITION OF THE COMMITTEE

The Heritage Advisory Committee should include a wide and balanced range of heritage interests; for example -

- a) a member of Council.
- b) a member of Burnaby Historical Society.
- c) a member of the Burnaby Village Museum Association.
- d) a registered architect.
- e) an historian or archivist (e.g. from Simon Fraser University).
- f) two persons from the community at large, having knowledge of local history, local architecture, or building conservation and restoration.

The Director Planning and Building Inspection or his designate and the Burnaby Village Museum Director or his designate would attend Committee meetings in an advisory capacity, but without voting authority.

HERITAGE ADVISORY COMMITTEE
 1988 APRIL 27
 PAGE TWO

3.0 REPORTING PROCEDURE

The approach to the establishment of the Heritage Advisory Committee accountable to Council, would be similar to other bodies set up through Council, such as the Parks and Recreation Commission. The Committee can appear as a delegation before Council as it deems necessary. Administratively the Director Planning and Building Inspection will provide the support function including liaison with other departments and agencies, and present the Committee's recommendations to Council as is the case with the Director Recreation and Cultural Services and the Parks and Recreation Commission. The Municipal Clerk's Department will provide a recording secretary who will be in attendance at all meetings to prepare agendas, keep minutes and coordinate the arrangements for the meetings.

4.0 RECOMMENDATIONS

It is recommended:

1. THAT the Heritage Advisory Committee terms of reference include the powers authorized under Section III of the attached Heritage Conservation Act.
2. THAT the composition of the Heritage Advisory Committee include the membership outlined in Section 2.0 of this report.
3. THAT the reporting procedure for the Heritage Advisory Committee be approved as outlined in Section 3.0 of this report.
4. THAT the appropriate by-law be brought forward to establish a Heritage Advisory Committee as permitted under the Heritage Conservation Act.



A. L. Parr
 Director Planning &
 Building Inspection

BR:1f

Attachments

cc: Municipal Manager
 Municipal Clerk
 Municipal Solicitor
 Director Recreation & Cultural Services
 Burnaby Village Museum Director

[Consolidated September 4, 1981.]

HERITAGE CONSERVATION ACT

[Amendment to be proclaimed]

CHAPTER 165

[Act administered by the Ministry of Provincial Secretary and Government Services]

Part	Section
1. Introduction	1 - 3
2. Provincial Heritage Conservation	4 - 9
3. Municipal Heritage Conservation	10 - 15
4. The British Columbia Heritage Trust	16 - 26
5. General and Transitional Provisions	27 - 30

PART 1

Interpretation

1. In this Act

- "board" means the board of directors of the trust;
- "council" means a council under the *Municipal Act* or the *Vancouver Charter*;
- "designate" means designate under Part 2 or Part 3, as the case may be;
- "heritage" means of historic, architectural, archaeological, palaeontological or scenic significance to the Province or a municipality, as the case may be;
- "heritage object" means, whether designated or not, personal property of heritage significance;
- "heritage site" means, whether designated or not, land, including land covered by water, of heritage significance;
- "municipal heritage site" means a heritage site designated under Part 3;
- "Provincial heritage site" means a heritage site designated under Part 2;
- "trust" means the British Columbia Heritage Trust established by Part 4.

1977-37-1.

Purpose of Act

- 2. The purpose of this Act is to encourage and facilitate the protection and conservation of heritage property in the Province.

1977-37-2.

Registry

- 3. (1) The minister shall maintain a registry of designated heritage sites and designated heritage objects.
- (2) A council, on designation of a municipal heritage site, or on variation or revocation of a designation, shall notify the minister in the prescribed form.

1977-37-3.

Designation

PART 2

- 4. (1) The Lieutenant Governor in Council may designate
 - (a) land as a Provincial heritage site; or
 - (b) personal property as a heritage object.

4/9/81

1

(2) Where designation under subsection (1) (a) decreases the economic value of land, the minister shall pay to the owner of the land an amount to be determined by order of the Lieutenant Governor in Council.

(3) The amount paid under subsection (2) shall be deemed full and fair compensation for loss or damage suffered by the owner as a result of the designation.

1977-37-4.

Permits

5. (1) The minister, or a person authorized in writing by him for the purpose, may issue a permit to excavate or alter a Provincial heritage site and to remove, move or alter heritage objects from it, and may

- (a) limit the application of the terms of a permit to a time period or location;
- (b) require a permit holder to provide the minister with reports the minister considers necessary and proper; or
- (c) impose other terms and conditions he considers necessary and proper.

(2) The minister may cancel or suspend a permit issued under this section.

1977-37-5.

Duties and prohibitions

6. (1) No person shall remove, or attempt to remove, a designated heritage object from the Province without the prior written consent of the minister.

(2) No person shall, except as authorized by a permit under section 5, knowingly

- (a) destroy, desecrate, deface, move, excavate or alter a Provincial heritage site, or a heritage object, designated under this Part;
- (b) destroy, desecrate or alter a burial place of historic or archaeological significance or remove skeletal remains from it;
- (c) destroy, deface or alter a North American Indian painting or rock carving of historic or archaeological significance; or
- (d) destroy, deface, alter, excavate or dig in a North American Indian kitchen midden, shell heap, house pit, cave or other habitation site, cairn or fortification.

(3) No person shall damage or remove a notice or order erected under section 8.

1977-37-6.

Preventive measures

7. (1) In this section

“site investigation” means the examination of a heritage site for recording, removing, moving or salvaging a heritage object;

“site survey” means the examination of land for assessing the heritage significance of the land or other property located on the land.

(2) Where, in the opinion of the minister, land contains a heritage site, he may order a site survey, or, where he considers circumstances warrant, a site investigation.

(3) Where, in the opinion of the minister, a heritage site may be altered, damaged or destroyed or is likely to depreciate or become dilapidated, he may order

- (a) a site survey, or, where he considers circumstances warrant, a site investigation; and
- (b) the owner of the heritage site to
 - (i) pay for the site survey or site investigation; and

(ii) preserve the heritage site until the site survey or site investigation is completed.

(4) Where a site survey or site investigation is ordered under this section, it shall be undertaken at once and in a manner that will not cause undue hardship to the owner of the land.

(5) Where necessary to make a site survey or site investigation ordered under this section, a person may enter land and no action for loss, damage or trespass shall be brought for anything done or omitted by him in good faith under this section.

1977-37-7.

Notices

8. The minister may erect and maintain a notice referring to this Act, or an order made under this Part, on or near a Provincial heritage site, and no action for loss, damage or trespass shall be brought for anything done or omitted in good faith under this section.

1977-37-8.

Provincial heritage advisory board

9. (1) The Lieutenant Governor in Council may, on the recommendation of the minister, establish a Provincial heritage advisory board to advise the minister under this Part and may appoint the number of persons he considers necessary as members of the Provincial heritage advisory board.

(2) A member of the Provincial heritage advisory board shall be paid reasonable travelling and out of pocket expenses necessarily incurred in the discharge of duties.

1977-37-9.

PART 3

Interpretation

10. In this Part "building, structure or land" means building, structure or land within the municipality, and a council shall follow the practices and procedures applicable to it under the *Municipal Act* or the *Vancouver Charter*, as the case may be.

1977-37-10.

Designation

11. (1) A council may, by bylaw, designate a building, structure or land, in whole or in part, as a municipal heritage site.

(2) No bylaw under subsection (1) shall be adopted by the council unless notice of its intention to consider the bylaw is

- (a) delivered by registered mail to the owner of the building, structure or land, at least 10 days before the date of consideration by council of the motion to adopt the bylaw, advising him how he may object; and
- (b) published in not less than 2 consecutive issues of a newspaper of general circulation within the municipality with the last publication appearing not less than 3 days, or more than 10 days, before the date described in paragraph (a).

(3) Notice under subsection (2) (a) shall be deemed to have been given 3 days after having been sent by registered mail addressed to the owner at his last known address.

(4) Where designation under subsection (1) decreases the economic value of the building, structure or land, the council may, by bylaw, provide a grant, loan, tax relief or other compensation to the owner.

(5) Compensation provided under subsection (4) shall be deemed to be full and fair compensation for loss or damage suffered by the owner through the designation.

1977-37-11.

Prohibition

12. No person shall

- (a) demolish a building or structure;
- (b) alter the facade or exterior of a building or structure; or
- (c) build on land

designated under this Part without the prior approval, by resolution, of the council.

1977-37-12.

Powers

13. For this Part, a council may

- (a) include provision for municipal heritage conservation in its annual budget;
- (b) enter into agreements with any person including the government of the Province or of Canada;
- (c) acquire covenants or easements; or
- (d) acquire or dispose of property.

1977-37-13.

Temporary delay of work

14. (1) Notwithstanding a permit or enactment to the contrary,

- (a) where a building, structure or land having possible heritage significance to a municipality may, in the opinion of the council, be altered, damaged or destroyed, the council may, by resolution, order that, for a period not exceeding 30 days, no person shall alter, damage or destroy the building, structure or land;
- (b) where a bylaw is introduced in council under section 11, no person shall alter, damage or destroy the building, structure or land under consideration unless the council rejects the bylaw or 60 days pass after the making of the motion and it has not been adopted; and
- (c) the alteration, damage or destruction of a building, structure or land may be delayed under paragraphs (a) and (b) for a total period not exceeding 90 days.

(2) Property shall be deemed not to be taken or injuriously affected by an order under subsection (1) (a) or the making of a motion described in subsection (1) (b).

1977-37-14.

Municipal heritage advisory committee

15. (1) A council may, by bylaw, establish a municipal heritage advisory committee to advise the council on any matter arising under this Part.

- the
- (2) The bylaw establishing a municipal heritage advisory committee shall set out
- (a) number of members of the committee and the manner of their appointment; and
 - (b) rules of practice and procedure regulating the business of the committee.
- (3) Where a council establishes a municipal heritage advisory committee, the council may budget for and pay the expenses of the committee.

1977-37-15.

PART 4 British Columbia Heritage Trust continued

- 16.** (1) The British Columbia Heritage Trust is continued consisting of the directors appointed to the board who, on their appointment, constitute a corporation.
- (2) The trust is an agent of the Crown in right of the Province and the powers of the trust may be exercised only as an agent of the Crown in right of the Province.
- (3) The *Company Act* does not apply to the trust but the Lieutenant Governor in Council may, by order, direct that the *Company Act*, or a provision in that Act, applies to the trust and it applies accordingly.

1977-37-16.

Directors

- 17.** (1) The Lieutenant Governor in Council shall appoint directors of the trust to serve at pleasure.
- (2) The Lieutenant Governor shall designate one of the directors as chairman of the board and may designate one or more of the other directors to be vice chairman.
- (3) Each director shall be reimbursed for reasonable travelling and out of pocket expenses necessarily incurred in the discharge of his duties, and may be paid remuneration for services the Lieutenant Governor in Council orders.

1977-37-17.

Objects of trust

- 18.** The objects of the trust are to support, encourage and facilitate the conservation, maintenance and restoration of heritage property in the Province.

1977-37-18.

Employees and consultants

- 19.** (1) There may be appointed under the *Public Service Act* employees of the trust the minister considers necessary.
- (2) The *Pension (Public Service) Act* applies to the trust and its employees and the trust
- (a) and its employees shall be deemed to be an employer and its employees within the meaning of that Act;
 - (b) shall make the deductions from the salaries of the employees as required under section 6 of that Act and pay the money to the commissioner under that Act; and
 - (c) shall in addition, pay to the commissioner employer's contributions in amounts equivalent to the employees' contributions made under sections 6 (1) and 7 (1) of that Act.

(3) The trust may require a bond under the *Bonding Act* from employees it designates.

(4) The trust may, with the approval of the minister, engage and retain persons it considers necessary as consultants, experts or specialists, and may fix their remuneration.

1977-37-19.

Powers

20. (1) To further its objects the trust may, with the approval of the minister, (a) acquire and dispose of property;

(b) enter into an agreement, including an agreement for the acquisition of a covenant or an easement, with a person, including the government of Canada or of a province;

(c) conduct and arrange exhibits or activities to inform and stimulate the interest of the public in property of heritage significance;

(d) subject to a trust or agreement under which a property was obtained by the trust, dispose of the property and execute instruments required to effect the disposal;

(e) receive by donation, public subscription, devise, bequest or otherwise, money or property;

(f) assist in or undertake research, study or publication concerning its objects; and

(g) provide loans, grants, advice and other services to persons in the Province having aims and objectives similar to the trust.

(2) Where, in the opinion of the minister, it is necessary to ensure that the purpose of this Act is carried out, he may exercise the powers under subsection (1).

1977-37-20.

Property of trust

21. Property acquired by the trust or minister is the property of the Crown in right of the Province and title to the property may be vested in the name of the Crown in right of the Province or in the name of the trust, but, notwithstanding the *Land Act*, the property shall be dealt with by the trust or minister under this Act.

1977-37-21.

Heritage Fund

22. (1) The trust shall maintain a fund which consists of money received by the trust from any source.

(2) The trust may, subject to the approval of the minister and the trust or agreement under which money comprising the fund was received, disburse, expend or otherwise deal with money in the fund for the objects of the trust and necessarily attendant expenses.

1977-37-22.

Deposit of money

23. (1) Money of the trust shall be deposited and kept in a savings institution designated by the minister and may be invested in securities authorized as trustee investments under the *Trustee Act*.

(2) Notwithstanding the *Revenue Act*, the money of the trust does not form part of the consolidated revenue fund.

1977-37-23: [amended 1981-15-101, to be proclaimed, amendment not included].

Exemption from taxation

24. The trust is not liable to taxation, except in so far as the Crown in right of the Province is liable.

1977-37-24.

Fiscal year

25. The fiscal year end of the trust is March 31.

1977-37-25.

Financial administration

26. (1) The trust shall establish and maintain an accounting system satisfactory to the Minister of Finance, and shall, whenever required by him, render detailed accounts of its revenues and expenditure for a period or to a day he designates.

(2) Records of the trust shall be open for inspection by the minister or other person he designates.

(3) The Minister of Finance may direct the Comptroller General of the Province to examine and report to him on any or all of the financial and accounting operations of the trust.

(4) The accounts of the trust shall, at least once in every year, be audited and reported on by an auditor appointed by the trust.

(5) The trust shall, by a date specified by the minister, submit annually to the minister

(a) a report of the trust on its operations for the preceding fiscal year;

(b) a financial statement showing the assets and liabilities of the trust as of the end of the preceding fiscal year; and

(c) the annual report of the auditor of the trust.

(6) The report and financial statement referred to in subsection (5) shall be laid before the Legislative Assembly within 90 days after the end of the fiscal year for which the report and statement are made where the Legislative Assembly is then sitting, otherwise within 15 days after the opening of the next following session.

(7) The *Financial Information Act* applies to the trust.

1977-37-26.

PART 5

Easements and covenants

27. (1) An easement or covenant acquired under this Act by the Crown in right of the Province, the trust or a council may be registered in the land title office against the land affected by the easement or covenant.

(2) Where an easement or covenant entered into under this Act is registered in the land title office the easement or covenant shall run with the land and the Crown in right of the Province, the minister, the trust or a council, as the case may be, may enforce the easement or covenant

(a) against the owner or a subsequent owner of the land whether the easement or covenant is of a positive or negative nature; and

4/9/81

7

- (b) even if the easement or covenant does not benefit land owned by the Crown in right of the Province, the trust or a council, as the case may be.
- (3) An easement or covenant acquired under this Act and registered in a land title office may be assigned by the Crown in right of the Province, the trust or a council, as the case may be, to any person and shall continue to run with the land and may be enforced under subsection (2) by and in the name of that person.

1977-37-27.

Civil remedies

28. (1) Where a person alters property in contravention of this Act, the minister on behalf of the Crown in right of the Province or a council, as the case may be, may order the person to restore the property to its condition prior to its alteration within a period specified in the order.

(2) Where a person has not complied with an order under subsection (1), the minister or a council, as the case may be, may restore the property to its condition prior to its alteration and the person who altered the property in contravention of this Act is liable for the reasonable costs of the restoration.

(3) No proceeding may be brought for anything done or omitted in good faith respecting a restoration under subsection (2).

1977-37-28.

29. A person who contravenes section 6, 12 or 14 (1) (b), or an order made under section 7 (3) (b) (ii) or 14 (1) (a), commits an offence.

1977-37-29.

Regulations

30. The Lieutenant Governor in Council may make regulations.

1977-37-37.

HERITAGE CONSERVATION ACT

(RS1979, c. 165)

UNPROCLAIMED AMENDMENT AS OF SEPTEMBER 4, 1981

Financial Administration Act
SBC1981, c. 15, s. 101

101. Section 23 (2) of the Heritage Conservation Act, R.S.B.C. 1979, c. 165, is repealed.

(i)

4/9/81

APPENDIX I

To establish a Heritage Advisory Committee in and for

The Municipal Council of The Corporation of enacts as follows:

1. This by-law may be cited as the "Heritage Advisory Committee Establishment By-law."

2. A Committee to be known as the "Heritage Advisory Committee" (hereinafter referred to as "the Committee") is hereby established pursuant to Section 15 of the Heritage Conservation Act, S.B.C. 1977, Chap. 37.

3. The members of the Committee shall be _____ in number and shall be appointed at any regular meeting of the Council.

4. (a) It shall be the duty of the Committee to advise the Council on those matters coming within the scope of PART III of the Heritage Conservation Act which are from time to time referred to it by the Council and, in particular, to make recommendations to Council respecting designation of heritage buildings, structures, and lands and the demolition, preservation, alteration, or renovation of those buildings, structures and lands;

(b) When any matter is referred to the Committee pursuant to this by-law the Committee shall, where possible, meet and report back on such matter to the next general meeting of the Council.

5. (a) The Committee shall be presided over by a Chairman who shall be elected annually by a majority vote of the members of the Committee from among the said members;

(b) The Chairman may from time to time appoint a member of the Committee as Acting Chairman to preside in his absence;

(c) Meetings of the Committee shall be at the call of the Chairman, who shall give or cause to be given to each member not less than 24 hours notice of each meeting, provided that such notice may be waived by unanimous vote of the Committee;

(d) a majority of the members of the Committee shall constitute a quorum;

(e) The Chairman shall preserve order at all meetings and decide all points of order which may arise;

(f) All questions before any meeting of the Committee shall be decided by a majority of the members present including the Chairman and the Chairman shall in addition have a deciding vote in the event of an equality of votes;

Appendix I (continued)

(g) The Chairman shall cause minutes of all meetings and proceedings of the Committee to be recorded in a book kept for that purpose and shall forthwith after the adoption by the Committee of such minutes sign and deliver the same to the City Clerk;

(h) Save with respect to matters expressly dealt with or provided for in this by-law, the rules governing proceedings of the Committee shall be those governing proceedings of the Council under the procedural by-law of Council passed under Section 172 of the Municipal Act, insofar as the said rules may be applicable.

DONE AND PASSED in open council this _____ day of _____, 1979.

APPENDIX II

A By-law to designate (name of building) as a municipal heritage site. The Municipal Council of the Corporation of (_____) enacts as follows:

1. This By-law may be cited as the "Heritage Designation By-law No. _____" passed pursuant to the provisions of Section 11 of the Heritage Conservation Act.

2. The building known as (name of building) is hereby designated as a municipal heritage site.

Describe the parts of the building, (i.e. the north and east facades above the ground floor ceiling level and roof) of the building known as (name of building) is hereby designated as a municipal heritage site.

3. Pursuant to the provisions of Section 11 of the Heritage Conservation Act the following land is hereby designated as a municipal heritage site:

(legal description)
DONE AS PASSED in open council this _____ day of _____, 1979.

From: "Heritage Conservation" booklet
Province of B.C. c.1980