

COMMITTEE OF THE WHOLE
January 19th, 2021

Report #C-2021-01
Amanda Mabo, Acting CAO/Clerk

COUNCIL COMPOSITION

STAFF RECOMMENDATION(S)

It is recommended:

“**THAT**, staff be directed to proceed with Option #1 – Remove the Wards and Reduce the Composition of Council.”

OR

THAT, staff be directed to proceed with Option #2 - Maintain or Alter the Current Ward Structure and Reduce the Composition of Council.”

BACKGROUND

At the October 2020 Council meeting Council's top six priorities for this term of Council were confirmed with the Composition of Council identified as one of the top six priorities:

RESOLUTION #C-2020-10-21

“**THAT**, Council's top six priorities for this term of Council are:

- Service Delivery Review
- Private Unassumed Roads
- Council Composition
- Integrity Commissioner Report Policy
- Property Standards
- Noise By-Law.”

Existing Composition of Council

The existing composition of Council was established in 1998 at the time of amalgamation and has remained the same since. The current composition of Council consists of 8 members in total, including one Reeve (Head of Council) and one Deputy Reeve both elected at-large and who also sit on County Council, along with 2 Councillor positions for each of the 3 wards (6 positions in total). The 3 wards that make up the electoral districts within the municipality mirror the boundaries of the pre-amalgamation municipal boundaries that were in existence prior to amalgamation.

DISCUSSION

Before discussing the options available for the composition of Council it is first important to understand the legislation and common law that could impact the options.

Legislative Authority - Composition of Council

The *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, establishes the framework for the composition of council of a local municipality. Section 217 authorizes a local municipality to change the composition of its council subject to the following rules:

1. There shall be a minimum of five members, one of whom shall be the head of council.
2. The members of council shall be elected in accordance with the *Municipal Elections Act, 1996*.
3. The head of council shall be elected by general vote.
4. The members, other than the head of council, shall be elected by general vote or wards or by any combination of general vote and wards.
5. The representation of a local municipality on the council of an upper-tier municipality shall not be affected by the by-law of the local municipality under this section.

A by-law described in this section does not come into force until the day the new council is organized,

- (a) after the first regular election following the passing of the by-law; or
- (b) if the by-law is passed in the year of a regular election before voting day, after the second regular election following the passing of the by-law.

Therefore, if Council wishes to reduce the composition of council there must be at least five members including the head of council and any change to the composition of Council will not come into force until the 2026 municipal election (after the first regular election after the by-law is passed) if the by-law is passed in 2021.

Legislative Authority - Wards

The *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, also establishes the framework under which adjustments can be made to a municipality's Ward Boundaries. Section 11 (2), subject to certain rules, provides that a municipality may pass by-laws regarding the governance structure of the municipality. Section 222, subject to certain rules, authorizes a municipality to divide or redivide the municipality into wards or to dissolve the existing wards. In order for new Ward Boundaries to be in place for the October 2022 municipal election, a by-law must be passed prior to January 1, 2022. To clarify, this is with no change to the composition of Council.

Ward Boundaries - Factors to be Considered:

Municipalities play a key role in the electoral process by establishing the size and composition of municipal council, determining the method of selecting members of municipal council (at large vs the ward system) and by establishing the wards from which municipal councillors are elected.

Section 222 of the *Municipal Act, 2001*, as amended, authorizes a municipality to divide or re-divide the municipality into wards or to dissolve the existing wards but contains no direction to municipalities respecting the process for a ward boundary review, unlike the courts and the Ontario Municipal Board (OMB), now known as the Land Planning Appeals Tribunal (LPAT) have.

Common Law has established a number of guiding principals concerning ward boundary reviews. The Supreme Court of Canada has held that “effective representation”, not representation by population on its own, is the standard for determining electoral boundaries in Canada. The Supreme Court also notes that effective representation cannot be achieved without taking into account factors like geography, community history, communities of interest and minority representation.

The Tribunal will consider the following criteria when considering whether a ward boundary by-law meets effective representation:

1. Does it equitably distribute the population and the electors?
2. Does it respect identifiable communities of interest?
3. Does it utilize natural, physical boundaries that are locally recognized?
4. Does it serve the larger public interest of all electors of the municipality in contrast to the interest of a small group?

Below are the “guiding principles” in more detail:

- Representation by Population
(Number of Voters & Geography)
 - to the extent possible, voters should be equally represented with reasonably equal population totals in each ward
 - this ensures that residents have equal access to their elected representative and that the workload of the representative is relatively balanced
 - equal population within a ward is almost impossible to achieve so it is common to permit variations from the average ward populations
 - a variance of plus or minus 25% is an acceptable deviation
 - where possible, an equitable distribution of population between each ward in the Township should be adopted and deviations from the average ward population of up to approximately plus or minus 25% should be permitted

- Representation of Communities of Interest
 - to the extent possible, breaking up traditional neighbourhoods and communities of interest should be avoided
 - there is no precise definition of a community of interest but they may include cultural, ethnic, religious and economic similarities
- Recognition of Distinct Geographic and Infrastructure Elements (ex. watercourses, railways, highways, arterial roads, etc.)
 - natural and manmade features that serve as physical boundaries should be respected
- Recognition of Future Population Growth
 - long term growth and development will impact population distribution

Election of Reeve and Deputy Reeve

The Reeve and the Deputy Reeve for Tay Valley Township are indirectly elected to County Council via their respective positions. The Reeve and Deputy Reeve serve as liaisons between the upper and lower tier municipalities by “wearing two hats” and communicating the concerns of each level of municipal government to the other. The Deputy Reeve, in the absence of the Reeve, also steps in as the Head of Council.

The Reeve and the Deputy Reeve for the Township are currently elected directly by the electors. This method of election gives the residents an opportunity to choose their Reeve and Deputy Reeve, and in essence their representative to County Council. Electing both the Reeve and Deputy Reeve by general vote (“at large”) also allows the Reeve and Deputy Reeve to take a broad view of the overall needs of the municipality.

It would be recommended that whatever the composition of Council is that the Reeve and Deputy Reeve continue to be elected by general vote (“at large”).

Public Feedback

Although not legislated, it is recommended that Council seek public input into a proposed option since Members of Council are elected to represent their constituents and it is always advisable to receive feedback at the outset instead of after the fact. Also, by seeking input at the outset versus once the by-laws are passed, it reduces the risk of an appeal to LPAT.

OPTIONS CONSIDERED

Option #1

Remove the Wards and Reduce Council Composition

By removing the ward system all members would be elected at large. Council could then choose to reduce the number of members to any number, as long as there is a minimum of five members with one of them being the head of council (Reeve).

Option #1a – 5 Members (Reeve, Deputy, 3 Councillors)

Option #1b – 6 Members (Reeve, Deputy, 4 Councillors)

Option #1c – 7 Members (Reeve, Deputy, 5 Councillors)

Next Steps – Council pass a motion to direct staff to bring back a report that includes the by-laws to implement one of the above options, a timeline and brief description of the steps to be undertaken, including a method(s) to receive community input before the by-laws are adopted.

The Township has been amalgamated since 1998 and Members of Council should be representing all constituents across the Township equally. This option would allow this to occur more naturally.

Option #2

Maintain or Alter the Current Ward Structure and Reduce Council Composition:

If the number of Councillors are to be reduced, then a ward boundary review should be completed using the guiding principles for the reasons discussed earlier in the report. This applies whether the ward boundaries remain unchanged or are altered.

It would be recommended that a Request for Proposal (RFP) be issued to retain a consultant to undertake the review.

Next Steps – Council pass a motion to direct staff to issue a RFP to retain a consultant to undertake a ward boundary review to determine the appropriate ward boundaries for the Township and number of Councillors and that the review include public consultation.

This option ensures that there is equal representation across the entire Township by having a Councillor from each area (ward) of the Township.

Option #3

Status Quo

Make no changes to the current composition of Council or ward boundary structure.

STRATEGIC PLAN LINK

Mission Statement: To deliver local, rural services for the benefit of all taxpayers in a way that is sustainable and brings value to residents of the municipality.

FINANCIAL CONSIDERATIONS

Note: These numbers are only estimates. As the process evolves there may be items that were not considered in this initial report.

Option #1 – Minimum \$7,500 (excluding staff time) - public consultation, advertising/notices, mapping changes, updates to policies and procedures, updates to election materials and systems, etc.

Option #2 - \$30,600 (excluding staff time) – retain a consultant to undertake a ward boundary review, public consultation, advertising/notices, mapping changes, updates to policies and procedures, updates to election materials and systems, etc. This amount was included in the 2021 Budget.

Approximate Cost per Member of Council per Year:

| | |
|--------------------------------------|-----------|
| - Salary & Benefits | \$16,151 |
| - Training, Conferences and Seminars | \$ 3,300* |
| - Travel Expense & Mileage | \$ 600 |
| - Supplies & Materials | \$ 600 |
| TOTAL | \$20,651 |

*This amount was reduced in the 2021 Budget due to the pandemic. The number reflected is in a regular year.

CONCLUSIONS

Whichever option is selected, the key will be to ensure public consultation early on so that if changes are required as a result of public feedback there will be time for Council to discuss and consider them before the by-laws are adopted.

ATTACHMENTS

- i) Appendix “A”: Municipal Act, 2001, S.O. 2001, c. 25, as amended
Section of Act Regarding Changes to Council
- ii) Appendix “B”: Municipal Act, 2001, S.O. 2001, c. 25, as amended
Sections of Act Regarding Wards

Prepared and Submitted By:

Amanda Mabo

**Amanda Mabo,
Acting Chief Administrative Officer/Clerk**

APPENDIX "A"

MUNICIPAL ACT, 2001, S.O. 2001, c. 25, (as amended)

SECTIONS OF ACT REGARDING CHANGES TO COUNCIL

Composition of council of local municipality

217 (1) Without limiting sections 9, 10 and 11, those sections authorize a local municipality to change the composition of its council subject to the following rules:

1. There shall be a minimum of five members, one of whom shall be the head of council.
2. The members of council shall be elected in accordance with the *Municipal Elections Act, 1996*.
3. The head of council shall be elected by general vote.
4. The members, other than the head of council, shall be elected by general vote or wards or by any combination of general vote and wards.
5. The representation of a local municipality on the council of an upper-tier municipality shall not be affected by the by-law of the local municipality under this section. 2001, c. 25, s. 217 (1); 2006, c. 32, Sched. A, s. 92 (1).

(2) REPEALED: 2006, c. 32, Sched. A, s. 92 (2).

Coming into force

(3) A by-law described in this section does not come into force until the day the new council is organized,

- (a) after the first regular election following the passing of the by-law; or
- (b) if the by-law is passed in the year of a regular election before voting day, after the second regular election following the passing of the by-law. 2001, c. 25, s. 217 (3); 2006, c. 32, Sched. A, s. 92 (3).

Election

(4) The regular election held immediately before the coming into force of a by-law described in this section shall be conducted as if the by-law was already in force. 2001, c. 25, s. 217 (4); 2006, c. 32, Sched. A, s. 92 (4).

Term unaffected

(5) Nothing in this section authorizes a change in the term of office of a member of council. 2001, c. 25, s. 217 (5).

APPENDIX “B”

MUNICIPAL ACT, 2001, S.O. 2001, c. 25, (as amended)

SECTIONS OF ACT REGARDING WARDS

11 *By-laws*

(2) A lower-tier municipality and an upper-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting the following matters:

1. Governance structure of the municipality and its local boards.
2. Accountability and transparency of the municipality and its operations and of its local boards and their operations.
3. Financial management of the municipality and its local boards.
4. Public assets of the municipality acquired for the purpose of exercising its authority under this or any other Act.
5. Economic, social and environmental well-being of the municipality, including respecting climate change.
6. Health, safety and well-being of persons.
7. Services and things that the municipality is authorized to provide under subsection (1).
8. Protection of persons and property, including consumer protection. 2006, c. 32, Sched. A, s. 8; 2017, c. 10, Sched. 1, s. 2.

Establishment of wards

222 (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to divide or redivide the municipality into wards or to dissolve the existing wards. 2006, c. 32, Sched. A, s. 96 (1).

Conflict

(2) In the event of a conflict between a by-law described in subsection (1) and any provision of this Act, other than this section or section 223, any provision of any other Act or a regulation made under any other Act, the by-law prevails. 2006, c. 32, Sched. A, s. 96 (1).

Notice

(3) Within 15 days after a by-law described in subsection (1) is passed, the municipality shall give notice of the passing of the by-law to the public specifying the last date for filing a notice of appeal under subsection (4). 2006, c. 32, Sched. A, s. 96 (1).

Appeal

(4) Within 45 days after a by-law described in subsection (1) is passed, the Minister or any other person or agency may appeal to the Local Planning Appeal Tribunal by filing a notice of appeal with the municipality setting out the objections to the by-law and the reasons in support of the objections. 2006, c. 32, Sched. A, s. 96 (1); 2017, c. 23, Sched. 5, s. 49 (1).

Notices forwarded to Board

(5) Within 15 days after the last day for filing a notice of appeal under subsection (4), the municipality shall forward any notices of appeal to the Tribunal. 2001, c. 25, s. 222 (5); 2017, c. 23, Sched. 5, s. 49 (2).

Other material

(6) The municipality shall provide any other information or material that the Tribunal requires in connection with the appeal. 2001, c. 25, s. 222 (6); 2017, c. 23, Sched. 5, s. 49 (3).

Tribunal decision

(7) The Tribunal shall hear the appeal and may, despite any Act, make an order affirming, amending or repealing the by-law. 2001, c. 25, s. 222 (7); 2017, c. 23, Sched. 5, s. 49 (4).

Coming into force of by-law

(8) A by-law of a municipality described in this section comes into force on the day the new council of the municipality is organized following,

(a) the first regular election after the by-law is passed if the by-law is passed before January 1 in the year of the regular election and,

(i) no notices of appeal are filed,

(ii) notices of appeal are filed and are all withdrawn before January 1 in the year of the election, or

(iii) notices of appeal are filed and the Tribunal issues an order to affirm or amend the by-law before January 1 in the year of the election; or

(b) the second regular election after the by-law is passed, in all other cases except where the by-law is repealed by the Tribunal. 2001, c. 25, s. 222 (8); 2006, c. 32, Sched. A, s. 96 (2); 2017, c. 23, Sched. 5, s. 49 (5).

Election

(9) Despite subsection (8), where a by-law comes into force on the day the new council of a municipality is organized following a regular election, that election shall be conducted as if the by-law was already in force. 2001, c. 25, s. 222 (9).

Notice to assessment corporation

(9.1) When a by-law described in this section is passed, the clerk of the municipality shall notify the assessment corporation,

Note: On January 1, 2023, the day named by proclamation of the Lieutenant Governor, subsection 222 (9.1) of the Act is amended by adding “and the Chief Electoral Officer” at the end of the portion before clause (a). (See: 2020, c. 23, Sched. 4, s. 16)

(a) before January 1 in the year of the first regular election after the by-law is passed, if clause (8) (a) applies;

(b) before January 1 in the year of the second regular election after the by-law is passed, if clause (8) (b) applies. 2009, c. 33, Sched. 21, s. 6 (10).

(10) REPEALED: 2017, c. 10, Sched. 1, s. 17.