Town of Huntsville Staff Report

**Meeting Date:** January 27, 2020

**To:** Council

**Report Number:** CORP-2020-03

**Confidential:** No

**Author(s):** Tanya Calleja, Municipal Clerk

**Subject:** At Large Municipal Elections

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**Report Highlights**

To provide Council with information regarding the Town of Huntsville changing from conducting municipal elections by ward to conducting municipal elections at large.

**Recommendation**

For Information Only.

**Background**

At the Special Council meeting held on December 17, 2019, Council postponed Staff Report CORP-2019-87 Ward Boundary Review and directed the Clerk to bring back a report with information regarding moving from electing members of council by ward to electing members of council at large.

**Discussion**

**Establishment of the Town of Huntsville Composition of Council**

District of Muskoka Staff Report 5(2016)-1 – "Muskoka District Council Composition" prepared by Debbie Crowder, District Clerk, outlined the composition of District Council as per the *District Municipality of Muskoka Act* (DMMA), passed in July 1970 and has since been repealed.

In her Report, Ms. Crowder noted that the DMMA accomplished several things including the creation of the current six (6) lower-tier Muskoka municipalities, the creation of the District Municipality of Muskoka and the allocated responsibilities between the upper and lower tiers. In 1982 District members became directly elected to sit on both upper and lower tiers with District Council being comprised of a total of twenty-three (23) members, including a Chairman and three members elected by general vote from the Town of Huntsville.
The 1995 version of the DMMA set out the composition of the Town of Huntsville by wards. Along with the stipulation that each mayor shall be elected by general vote and shall be the head of the council and a member of District Council, the Town of Huntsville Council composition was outlined as follows:

Eight members as follows:

- The three members elected as members of the council of the area municipality and of the District Council from the area municipality of the Town of Huntsville by general vote;
- Five members elected as members of the council of the area municipality as follows:
  - Brunel Ward – One member
  - Chaffey Ward – One member
  - Huntsville Ward – One member
  - Port Sydney Ward, Stephenson Ward and Stisted Ward – Two members

Although the DMMA has been repealed, the Interpretation Act R.S.C., 1985, c. 1-21 allows for these boundaries to remain in effect as per section 43 (b) which states “Where an enactment is repealed in whole or in part, the repeal does not affect the previous operation of the enactment so repealed or anything duly done or suffered thereunder”.

Authority to Set the Composition of Council

Section 11(2) of the Municipal Act, 2001 provides that lower-tier municipalities may pass by-laws respecting the governance structure of the municipality.

Section 217 of the Municipal Act, 2001 (M.A.) provides that a local municipality may change the composition of its council with the following rules:

- Minimum of five (5) members, one of whom shall be the head of council.
- Members shall be elected in accordance with the Municipal Elections Act, 1996.
- Head of council shall be elected by general vote.
- Other members shall be elected by general vote or wards or by any combination of general vote and wards.
- Representation of a local municipality on the council of an upper-tier shall not be affected.

Should Council choose to add or eliminate a council position, a By-law is required and would need to be passed prior to December 31st, 2021.

The M.A. does not provide any direction for changing from an election by ward to an election at large; however, for matters that affect the public, municipal councils generally exercise their authority by By-law and therefore Staff are recommending a By-law be passed.

The M.A. also does not prescribe for public consultation or an appeal mechanism for a change in council composition or change to an at large election. However public consultation would strongly be recommended.

The Town’s Provision of Notice By-law requires an advertisement be placed in the newspaper fourteen (14) days prior to the meeting where any final changes are being considered to council composition.
Dividing or Dissolving Wards

Section 222 of the Municipal Act, 2001 authorizes a municipality to divide or redivide the municipality into wards or to dissolve the existing wards by by-law.

Should Council choose to dissolve the wards, a By-law would need to be passed prior to December 31, 2021 in order to be effective (pending appeals – see below) for the 2022 Municipal Election.

Appeals

M.A. Subsection 222:
- (3) provides for the municipality to give notice of the passing of the by-law to the public within fifteen (15) days.
- (4) provides for the Minister or any person or agency to file a notice of appeal with the municipality to the Local Planning Appeal Tribunal.
- (5) provides for any notices of appeal to the Tribunal to be forwarded within fifteen (15) days.

Pursuant to M.A. Subsection 222 (8), a by-law to divide or dissolve wards could potentially come into force for the 2022 Municipal Election pending that by January 1, 2022:
1. No notices of appeal are filed,
2. Notes of appeal are filed and withdrawn or
3. Notice of appeal are filed and the Tribunal issues an order to affirm or amend the By-law.

As noted in Report CORP-2019-87 – Ward Boundary Review, Tribunal appeals could potentially take up to ten (10) months to conclude.

2018 Association of Municipal Clerks and Treasurers Election Survey

Following the 2018 Municipal Election, the Association of Municipal Clerks and Treasurers conducted an election survey. Out of the 263 that responded the following statistics were compiled:

**At Large and Ward Elections**

<table>
<thead>
<tr>
<th></th>
<th>Fewer than 10,000</th>
<th>10,000 - 50,000</th>
<th>50,000 - 100,000</th>
<th>100,000 - 250,000</th>
<th>More than 250,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>At-Large</td>
<td>98</td>
<td>30</td>
<td>6</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Ward System</td>
<td>57</td>
<td>41</td>
<td>8</td>
<td>13</td>
<td>7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>155</strong></td>
<td><strong>71</strong></td>
<td><strong>14</strong></td>
<td><strong>15</strong></td>
<td><strong>8</strong></td>
</tr>
</tbody>
</table>

*Changes Since the 2014 Municipal Election*
Conclusion

The M.A. does not require municipalities to dissolve their wards in order to change from an election by ward to an election at large. The ward boundaries would continue to exist and could be used to define communities of interest but would not be used as the basis for election.

In the research conducted, all the municipalities Staff had spoken with had dissolved their wards except for the City of Oshawa. The City of Oshawa maintained their wards which can be assumed made the transitions easier when they changed from a ward system (2006) to an at large system (2010 & 2014), back to a ward system (2018) for elections.

Although maintaining the wards while opting for an at large election may appear ideal, it may cause public confusion, especially during the Municipal Election.

If Council chose to dissolve the wards while opting for an at large election, the dissolution of the ward boundaries can be challenged, but the Local Planning Appeal Tribunal would not have jurisdiction to set aside Council's decision to conduct elections at large.

In 2012-2013 when Council last discussed moving to an at large election the public raised concerns with the belief that the end result would be the majority of the elected members of Council from the urban area and thereby losing that beloved grassroots rural representation. They also noted any changes were not a demand of the communities.

Council may wish to consider the current review of Council composition being conducted by the District of Muskoka.

In October 2018 the District Council Composition Review Committee recommended the size of District Council be reduced and that the next Council (2018-2022) cast a committee to begin deliberations of the reduction. Due to the Province of Ontario’s Regional Government Review, the matter was temporarily put on hold. As the Review resulted in no changes, the District has now established a District Municipal Modernization Committee that would include a review of council composition.

Although this would not disallow Town Council from changing to an at large election, it may be premature to do anything until the District has determined their composition. Town Council may also want to wait until the District has completed their review in order to consider just changing to an at large election for the Deputy Mayor's position.
Synopsis of Legislation

<table>
<thead>
<tr>
<th>Options</th>
<th>Applicable Section in the Municipal Act</th>
<th>Requirement for a By-law to be Passed</th>
<th>LPAT Appeal</th>
<th>Requirement for Public Consultation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Changing Council Composition – Adding or Eliminating a Position</td>
<td>Sec 217</td>
<td>By-law passed by Dec 31 2021</td>
<td>No</td>
<td>No – M.A. Yes – Provision of Notice By-law</td>
</tr>
<tr>
<td>Dividing, Redividing or Dissolving Wards</td>
<td>Sec 222</td>
<td>By-law passed by Dec 31 2021</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Move from a ward election to an at large election</td>
<td>No direction provided</td>
<td>No direction provided</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Options

1. Remain status quo.
2. Remain as status quo and revisit upon completion of the District of Muskoka review.
3. Consult with the public on implementing an at large election for the 2022 Municipal Election.
4. Consult with the public on dissolving the wards and implementing an at large election for the 2022 Municipal Election.

Capital

N/A

Operational

Dissolution of Wards - Potential cost of appeals to the Local Planning Appeal Tribunal (LPAT)

Council Strategic Direction / Relevant Policies / Legislation / Resolutions

- Interpretation Act R.S.C., 1985, c. 1-21
- Municipal Act, 2001
- Council Resolution No. 238-19
- Provision of Notice By-law 2011-18
- District of Muskoka Staff Report 5(2016)-1 – Muskoka District Council Composition
- The 2019-2023 Strategic Plan is not applicable to this report.

Consultations

- Crystal Best-Sararas, Deputy Clerk