 Committee Report

# Report CCR-CW-08-17

**To**: Warden Barfoot and Members of Grey County Council

**From**: Sharon Vokes

**Meeting Date:** July 13, 2017

**Subject: Options for Composition of County Council and Term of Office of Warden**

**Status**: Recommendation adopted by Committee as presented per Resolution CW137-17; Endorsed by County Council July 27, 2017 per Resolution CC41-17 ;

## Recommendation

1. **That Report CCR-CW-08-17 regarding options for the composition of County Council and the Term of Office of Warden be received for information.**

## Background

The following resolution was passed at the June 8, 2017 Committee of the Whole meeting and then endorsed at the June 29, 2017 Council meeting:

“That staff be directed to bring back a report analyzing options for the size and composition of Council; and

That staff also include options related to the Warden’s term of office.“

In addition to Council’s direction, this report includes some discussion about weighted voting and the concept of directly electing the warden. The logic behind this is that any change to the composition or structure of council could impact other ways the County is governed.

The intent of this report is to provide council with options available and to provide a forum for discussion. Decisions regarding an appropriate governance structure to serve the County today and into the future are not to be taken lightly. Many of the options available to Council require a triple majority. This means that County Council would need to approve of the change along with a majority of lower tier councils who represent a majority of the electors. This must all be accomplished by December 31, 2017 if it is to take effect after the 2018 municipal election. This is a very tight timeline when one considers the amount of public engagement that should be done on a decision of this nature.

The subject of the size of council, term of office of warden, method of election and weighted voting have been evaluated the last two terms of council using task forces of members of council. As such, there is already a considerable amount of information available to draw from and the respective reports are included as links in this report. A chart comparing the different county structures is attached to this report as Schedule “A”.

Another valuable report that was referenced is a governance review completed in 2010 for Simcoe County. While the comparators used for Simcoe County were different from comparators that would likely be used for Grey County, the report is still very informative and provides a good explanation of why county governments are considered a “weak” form of government.

Counties are considered to be a weak form of government as none of the council is directly elected and each councillor currently carries the responsibility of trying to consider the best policy decisions for two different municipalities. In many situations, the interests are the same, but not always. Shorter terms of office for wardens than the four year term of council also make it more difficult to influence others, especially those at the provincial level. It also makes it more difficult to create and implement long range strategies.

The issues that Council has requested consideration of are governed by the Municipal Act. For ease of reference the relevant sections of the Act are included in Schedule “B” attached to this report.

### Discussion

#### Term of Office of Warden

The term of office of Warden is steeped in history and dates back to the beginning of municipal government where the term of office of municipal councils was one year in length. Since that time there has been an evolution from two to three and finally a four year term of office for municipal councils in 2006. The logic for increasing the term of council was to provide for such things as more long term visioning, strategic planning and more continuity based on the growing complexity of governance matters being dealt with by municipalities.

Updates to the Municipal Act have not required heads of county councils to have four year terms. Rather, the legislation was made to be permissive to allow for one, two or four year terms. Over the years, there has been a growing trend of county councils to move to two year terms for their wardens and a few have moved to four year terms. Since the last survey conducted in 2012, three more counties have moved to two year terms. Staff have completed a survey of other counties and that information is included in this report. It should be noted that at this point in time no two tier county has moved to direct election of its head of council. This does exist, but in single tiers such as Haldimand, Norfolk and Brant.

What is interesting to note are the changes made this year to the Municipal Act for heads of council of regions. Regions currently have a blend with some heads of council indirectly elected and others directly elected. Going forward beginning with the 2018 municipal election all heads of council of regions will be directly elected.

Grey’s experience with the term of office of Warden is that Governance Task Forces in both 2009 and 2012 recommended moving to a two year term of office of Warden. In both cases, the recommendations were voted down on the floor of council.

Below is an excerpt from Report CAOR-GOV-12-12 which describes the pros and cons of changing the term of office of the warden.

#### “Support for the Status Quo

Arguments in support of retaining the one year term of Warden include:

* The current system is working well, there is no need to change
* It affords more members of county council the opportunity to run for the office knowing that the time commitment is limited
* It refreshes county leadership on a regular (annual) basis
* The Warden is held accountable on an annual basis to County Council
* In a federation of many local municipalities it provides more frequent opportunities to share the leadership among and give voice across more of the constituent municipalities

#### Arguments for Change

Some argue that electing a Warden annually has certain shortfalls that hinder the effective governance of a county. The suggested shortfalls include:

* Insufficient time to develop relationships with other government and/or business interests
* Insufficient time to champion any corporate vision and sustain longer term initiatives
* The frequency of change in the position does not promote governance or administrative stability as a result of annual changes, and incurs unnecessary costs
* As a result of the above factors, the position may be considered more ceremonial in nature, at the expense of the actual leadership component
* A longer term of office may enable the incumbent to address the shortfalls noted above; however, a longer term may also have its downsides, including:
* The position of Warden (unless directly elected) comes with two jobs: to represent the interests of the local municipality and the constituents that elected him/her, and; to lead county council and represent the interests of the county corporation. It can be a challenge even within a one year mandate for the incumbent to serve both interests well. Increasing the term and leadership responsibilities and corporate expectations of the Warden’s role may be overwhelming and diminish the effectiveness of the incumbent in performing both mandates.
* A longer time commitment may dissuade some county councillors from seeking the position due to competing work, family or local municipal commitments”

A change to the term of office of warden falls under Section 218(4) and would require notice to the public and at least one public meeting. It does not require a triple majority vote. A by-law changing the term of office of warden would not come into effect until after the next municipal election in 2018. As well, two year terms cannot overlap municipal election cycles.

Council may, if desired, require that the warden be directly elected in which case it would be an automatic four year term. A change to directly elect the warden would require a triple majority vote.

#### Council Composition

While council composition was discussed by the former Governance Task Forces, there hadn’t been any serious interest expressed on the part of councillors for a change. Over the course of this term of council there have been more questions on the size of council and whether the weighted voting system should be revised or eliminated. Changes to council composition and weighted voting do require a triple majority vote and must be done by December 31, 2017.

The concept of a nine member council has been mentioned by some people over the course of this term of council. It is likely that this would mean the mayor of each lower tier would also be a member of county council.

Changing the composition of council is a major governance decision which requires a great deal of thought and analysis. For example, there are other ways of changing the council structure. An example could be adjusting the membership on council to better reflect the differences in the number of electors in each lower tier municipality. Some municipalities could have one representative while others more.

Another option worth considering is the blended model currently being used in Wellington County and was the recommended model for Simcoe County in its governance review. In the blended model the lower tier municipalities would continue to have indirect election with the mayor or another designated member being on County Council. Other representatives would be directly elected. The Simcoe County report indicated that moving to a blended model would create a stronger form of county governance. The blended model is considered to be a stronger governance model because a portion of councillors are elected with the direct mandate of supporting the county.

While weighted voting wasn’t something that Council has requested options on, it is something that needs to be considered. It is possible that a different type of structure might eliminate the need for weighted voting by creating a more equitable form of representation by population or electors. Grey is somewhat unique in that some of its member municipalities have a higher number of electors than population. This is in contrast to most municipalities where population is higher.

#### Implications of Bill 68

Another thing to consider when looking at County Council’s structure is the impact of the changes that will take place as a result of Bill 68 which has received Royal Assent. It provides that lower tier councils may send an alternate to County Council in the absence of a member from the lower tier council. There is no time frame associated with the absence so it could be an absence for a single meeting. The lower tier council can only appoint one person for the term of council as the alternate.

Alternates on County Council for short periods of time create some interesting questions which will need to be addressed. Committee of the Whole and Council agendas and minutes are currently sent to all local councillors through the County Connections newsletter. There will be the need for alternates to review this information to be able to stay in the loop in the event they need to attend a meeting.

There may be some challenges for alternates to understand the issues surrounding programs that aren’t dealt with at the local level such as paramedic services and social housing. In the case of weighted votes where the mayor has more votes than the deputy mayor, will the alternate get more votes than the deputy mayor who is there all the time?

### Where do we go from here?

The reports attached include a great deal of background information and seeking more information isn’t likely to alter the pros and cons of each option very much. The reality is that there is less than six months to consider and approve any changes.

The term of office of warden is a decision that rests solely with County Council. There is ample information in the attached reports, along with each councillor’s own observations, that provide Council with the information to make a recommendation to change the term of the warden. It must be remembered that notice and a public meeting are required. If it is Council’s wish to move to a two or four year term a resolution would need to be passed by County Council recommending this with the view that it would be finalized after giving the public notice and holding a public meeting. Direct election of the warden would also trigger the need for a triple majority vote.

Changing the composition of County Council is much more complex and numerous factors need to be considered. It is not a decision that should be done lightly and requires a triple majority. To achieve the triple majority there would need to be significant time invested to ensure each lower tier council understands the recommended change. Beyond that, there may also be a benefit to seek input from stakeholders on various options. Another option is to consider having the research and recommendations done by a consultant. All of this takes time, and the reality is that with less than six months left there isn’t adequate time to do the job well.

It is staff’s recommendation that if there is an interest in going forward to look at changing council’s composition that any recommended change in composition also include a review of the weighted voting structure. It is anticipated that this review would not be complete until mid-2018 which is too late to implement for the 2019 – 2022 council. If the work was completed it is something that the current council could recommend to the incoming council to consider. There are pros and cons to this approach. On the plus side, current County Councillors have a minimum of almost three years’ experience on County Council and that input is invaluable. On the other hand, an incoming council might not be interested in a different structure.

## Financial/Staffing/Legal/Information Technology Considerations

There are no financial, staffing or information technology considerations related to changing the term of office of warden to either two or four years. There is a legal requirement to provide notice and hold a public meeting. As noted above, the move to direct election of the warden would require a triple majority vote as well.

There will be staff time involved in any review of council’s structure. If it is an internal review done by staff and councillors the financial impact will depend on how extensive public involvement is as well as the time spent with member municipalities. It could range from a few expenses for mileage and potential per diems to something more for community consultation. This will add to the workload of staff and may mean that other priorities get shifted in order to have this review completed on time.

If the approach is to use a consultant, costs could be in the $50,000 range. There are benefits to using a consultant for a project of this nature as people may feel more comfortable providing opinions to a neutral third party. There will still need to be staff time dedicated to managing the project.

## Link to Strategic Goals/Priorities

This initiative links to Goal 3 of delivering excellence in governance and service and the priority outcome of a Governance model for the future.

## Attachments and Background Information

Schedule “A” – Excerpt of legislation from the Municipal Act, 2001 as amended (attached)

Schedule “B” – County Comparison (attached)

[Report WR-CC-02-09 Regarding the Governance Structure of the County of Grey](https://docs.grey.ca/share/s/6_8XlvXKQsemyncrkrqUfw)

[Report CAOR-GOV-12-12 Consideration of Changes to Term of Office of Warden, Election of Warden, Composition of County Council and Method of Recorded Votes](https://docs.grey.ca/share/s/Tqu74idDROOwgTH0Si5rTQ)

Respectfully submitted by,

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County Clerk and Director of Council Services

## Schedule “A” to Report CCR-CW-08-17

| **County Name** | **Population Census (2016)** | **# of Lower Tier** | **County Council****Size** | **Head of Council** | **Term (Years)** | **Election**  |
| --- | --- | --- | --- | --- | --- | --- |
| **Grey**  | 93,830 | 9 | 18 | Warden | 1 | Indirect |
| **Simcoe** | 262,048 | 16 | 32 | Warden | 2 | Indirect |
| **Oxford\*** | 110,862 | 8 | 10(8 mayors + 2 Woodstock) | Warden | 4 | Indirect |
| **Wellington** | 222,726 | 7 | 16,(7 mayors + 9 ward) | Warden | 2 | Indirect |
| **Huron** | 59,297 | 9 | 15,(9 mayors + 6 deputies) | Warden | 2 | Indirect |
| **Lambton** | 126,638 | 11 | 17(11 mayors, 2 deputy mayors and 4 city/county councillors) | Warden | 2 | Indirect |
| **Middlesex**(weighted vote) | 71,703 | 8 | 12(7 mayors +5 deputies) | Warden | 1 | Indirect |
| **Bruce** | 68,147 | 8 | 8 | Warden | 1 | Indirect |
| **Essex** | 398,953 | 7 | 14 | Warden | 4 | Indirect |
| **Elgin** | 88,978 | 7 | 9,(7 mayors + 2 deputies) | Warden | 1 | Indirect |
| **Norfolk** (single tier) | 64,044 | 0 | 9 | Mayor | 4 | Direct |
| **Perth** | 76,796 | 4 | 11, (4 mayors + 4 deputies + 3 other based on pop.) | Warden | 1 | Indirect |
| **Dufferin** | 61,735 | 8 | 13,( 8 mayors+ 5 deputies) | Warden | 1 | Indirect |
| **Haldimand** (single tier) | 45,608 | 0 | 7 | Mayor | 4 | Direct |
| **Hastings** | 136,445 | 14 | 14 | Warden | 2 | Indirect |
| **Peterborough** | 138,236 | 8 | 16 | Warden | 1 | Indirect |
| **Brant** (single tier) | 36,707 | 5 wards | 11 | Mayor | 4 | Direct |

## Schedule “B” to Report CCR-CW-08-17

## Excerpt from The Municipal Act, 2001, as amended

### Composition of upper-tier council

**218** (1)  Without limiting sections 9, 10 and 11, those sections authorize an upper-tier 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. Subject to paragraph 2.1, the head of council shall be elected by general vote, in accordance with the Municipal Elections Act, 1996, or shall be appointed by the members of council.

 2.1 For a regional municipality other than the County of Oxford, the head of council shall be elected by general vote in accordance with the Municipal Elections Act, 1996.

 3. The members of council, except the head of council, shall be elected in accordance with the Municipal Elections Act, 1996 to the upper-tier council or to the council of one of its lower-tier municipalities.

 4. The head of council shall be qualified to be elected as a member of council of the upper-tier municipality.

 5. If the members of council are directly elected to the upper-tier council and not to the council of a lower-tier municipality, the members shall be elected by general vote or wards or by any combination of general vote and wards.

 6. Each lower-tier municipality shall be represented on the upper-tier council. 2001, c. 25, s. 218 (1); 2006, c. 32, Sched. A, s. 93 (1); 2016, c. 37, Sched. 15, s. 1.

#### Types of changes

(2)  Without limiting sections 9, 10 and 11, the power to change the composition of council includes the power to,

 (a) change the size of council;

Note: On January 1, 2018, clause 218 (2) (a) of the Act is repealed and the following substituted: (See: 2017, c. 10, Sched. 1, s. 14 (1))

 (a) change the number of members of its council that represent one or more of its lower-tier municipalities;

 (b) change the method of selecting members of the council, including having members directly elected to the upper-tier council and not to the council of a lower-tier municipality, members elected to serve on both the upper-tier and lower-tier councils or members elected to the lower-tier councils and appointed to the upper-tier council by the lower-tier municipalities, or a combination of methods of election;

 (c) have a member representing more than one lower-tier municipality;

 (d) require that if a member of council is appointed by the members of council as the head of the upper-tier council, the member is no longer entitled to hold office on the council of a lower-tier municipality or any other office on the council of the upper-tier municipality or both; and

 (e) require that if a member of council is appointed by the members of council as the head of the upper-tier council, the appointed member must hold office on the council of a lower-tier municipality. 2001, c. 25, s. 218 (2); 2006, c. 32, Sched. A, s. 93 (2).

#### Number of votes

(3)  Without limiting sections 9, 10 and 11, those sections authorize an upper-tier municipality to change the number of votes given to any member but each member shall have at least one vote. 2006, c. 32, Sched. A, s. 93 (3).

#### Term of office

(4)  Without limiting sections 9, 10 and 11, those sections authorize an upper-tier municipality to change the term of office of an appointed head of council so long as the new term does not extend beyond the term of council. 2006, c. 32, Sched. A, s. 93 (3).

#### Coming into force of by-law

(2)  A by-law described in section 218 making changes described in clauses 218 (2) (a), (b) and (c) or in subsection 218 (3) is not valid unless,

 (a) a majority of all votes on the upper-tier council are cast in its favour;

 (b) a majority of the councils of all lower-tier municipalities forming part of the upper-tier municipality have passed resolutions consenting to the by-law; and

 (c) the total number of electors in the lower-tier municipalities that have passed resolutions referred to in clause (b) form a majority of all the electors in the upper-tier municipality. 2001, c. 25, s. 219 (2); 2006, c. 32, Sched. A, s. 94 (2).