

The Corporation of the
Municipality of Neebing

AGENDA for Special Meeting of Neebing Council, Sitting as Committee of the Whole
Wednesday, September 29, 2021 at 6:00 p.m.
To be held at Blake Hall, 71 Blake Hall Road

1. Preliminary Matters

- (a) Call to Order
- (b) Attendance
- (c) Request/Receive Declarations of Pecuniary Interests
under the Municipal Conflict of Interest Act (if any)

2. Public Meeting Relating to the Review of Council Composition

- 2.1 Report from Clerk-Treasurer Regarding Council Composition
(Recommendation to receive the report for information.)

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- 2.2 Hear from Members of the Public Regarding Council Composition

5. Adjourn the Meeting

**The Corporation of the Municipality of Neebing
Administrative Report**

Date: September 24, 2021 (For Special Meeting on September 29, 2021)
To: Mayor and Council
Subject: Council Composition
Submitted by: Erika Kromm, Clerk-Treasurer

RECOMMENDATION:

Administration has provided this report for information.

BACKGROUND / DISCUSSION:

One of Council's strategic goals is to complete a review of the composition of Neebing Council and the possibility of reducing Council to five members. In the fall of 2019, a series of articles was published in the Neebing News seeking input from the public on this matter. Very few comments were received and in September Administration put out a survey to obtain further comments. In addition, Council scheduled this public meeting to provide an opportunity for in person feedback. Attachment One is a copy of the questions in the survey.

One purpose of the review is to look at the following options for Neebing Council:

1. All at-large elections
2. Ward elections only
3. Mixture of ward and at-large elections

The other purpose is to review whether to have five or seven members of Council. Five being the minimum number that the Municipal Act will allow.

Attachment Two is a copy of the 2019 Council report that provides details regarding the available options.

To date 28 survey responses have been received and five individuals have submitted comments by email. A summary of the responses will be provided in a report to Council at a future meeting along with comments received at this Public Meeting. So far the opinions are fairly split but with slightly more being in favour of the status quo.

ATTACHMENTS:

One: Council Composition Survey
Two: 2019 Report to Council

AVAILABLE UPON REQUEST:

Past Council reports and Neebing News Articles, Relevant legislation

ATTACHMENT ONE: Council Composition Survey

COUNCIL COMPOSITION SURVEY

NEEBING IS SEEKING YOUR INPUT

In the fall of 2019, the Municipality published a series of articles seeking input from residents regarding the composition of Council. As the current term of Council is nearing an end in 2022, Council is interested in providing another opportunity for residents to provide input on the composition of Neebing's Council.

In the 2019 articles, we explained the differences between elections "at large" and elections by geographic ward. In addition, we looked at the possibility of reducing the size of Council from seven to five members. These articles are available for reference on our website at www.neebing.org/notices.

Through the articles Neebing asked residents to respond to the following questions:

1. Is it important to you to have a "ward councillor", elected to represent your geographic township's interests? Or would you be comfortable having all Council members elected "at large"? What is your preference?
 - ☐ Ward
 - ☐ At large
 - ☐ Combination of Ward and At Large
 - ☐ No preference
2. Please provide additional comments regarding your response to Question 1.
3. If you are a fan of the "ward councillor" system, are you comfortable with the way the wards are drawn up? Or do you think the ward boundaries should be changed?
 - ☐ Keep the existing wards
 - ☐ Change the wards
 - ☐ Do not prefer the ward system
4. If you would like to see the existing wards changed, how do you think they should be changed?
5. Are you comfortable with a 7-member Council when most other rural municipalities opt for 5-member Councils? What is your preferred size of Council?
 - ☐ 7 members
 - ☐ 5 members
 - ☐ No preference
6. Please provide additional comments regarding your response to Question 5.

7. In which Ward (geographic township) do you live?

- ☐ Blake
- ☐ Crooks
- ☐ Pardee
- ☐ Pearson
- ☐ Scoble

We look forward to your input. Make your voice heard on this important matter.

Please submit comments by one of the following methods:

Email: clerk@neebing.org

Fax: 807-474-5332

Mail or hand deliver to: 4766 Hwy 61, Neebing, ON P7L 0B5

If you would prefer to complete the survey online, visit our website at www.neebing.org/notices.

ATTACHMENT TWO: 2019 Report to Council**The Corporation of the Municipality of Neebing
Administrative Report**

Date: June 12, 2019 (For Meeting on June 19, 2019)

To: Mayor and Council

Subject: Council Composition: Potential Reduction to 5 from 7
File Number: 02-C06-501600-2019 (2022 Election file)

Submitted by: Rosalie A. Evans, Solicitor-Clerk

RECOMMENDATION:

This Report is prepared for Council's information. Should further action be required, Administration requests direction on next steps.

BACKGROUND:

At Council's meeting held June 5th, 2019, a report was requested to outline the steps required to change the composition of Council. Council further requested that the "pros" and "cons" associated with reducing the size of Council in Neebing from 7 to 5 be outlined in the report.

An even number of members of Council is never recommended, and it is Administration's understanding that Council is not seeking to increase the number of seats, so the choices associated with any type of restructuring discussed in this Report involve a council composed of either 5 or 7 members.

When a seat at the council table is elected "at large", that means that every voter has the right to cast a vote for one of the candidates for that seat. (The Municipal Act, 2001 requires every head of council position to be elected "at large".)

When a seat at the council table is elected "by ward", that means that not all voters in the municipality can vote for one of the candidates for that seat – only the voters within the ward have the right to vote for those candidates.

The Ontario Divisional Court has stated that setting electoral boundaries is an exercise that requires the weighing of many policy considerations, but the primary consideration is "effective representation" for the electorate. Things that fall under this category include:

- geography;
- communities of interest; and
- capacity to represent.

That having been said, in approving a by-law that dissolved all wards in Niagara Falls and reduced the size of the council from 12 to 8, the Ontario Municipal Board stated this would “not deprive the citizens of the municipality of fair and effective representation and will not dilute the current form of governance”, and that “an at large system of electoral representation does permit different interests, localities and communities of the city to be properly represented.”

Restructuring options are:

1. Keep 7 members but change the manner of election for some or all of them;
2. Keep 7 members and adjust ward boundaries (whether keeping the same number of wards or not);
3. Reduce the Council size to 5, continuing to have a mix of at-large and by-ward elections (requires ward boundary adjustments);
4. Reduce the Council size to 5 and have 4 wards, each with one seat at the table (plus the head of council)(requires ward boundary adjustments);
5. Reduce the Council size to 5 and have one or two members elected by ward and one or two members elected at large (plus the head of council)(requires ward boundary adjustments).

Of course, the status quo is also an option.

Current Council Structure

As noted, by law, heads of municipal councils must be elected on an “at large” basis. As for the balance of the council members on any given council, the manner of election is up to the Council to determine. It can be by wards, at large, or a mixture.

Neebing Council is currently comprised of 7 members – the head of council, five councillors elected by ward and one councilor elected at large.

Neebing currently has 5 wards, each of which is a geographic township. The residents in each ward are entitled to elect one ward councilor.

By land area, the largest ward is Blake. The land areas of Crooks, Pardee and Pearson are roughly the same size, and Scoble is, geographically the smallest. Both Pardee and Blake have large undeveloped areas without road access. In Blake, the undeveloped land is protected watershed and is not accessible by road (from Neebing). In Pardee, much of the area has no hydro, land phone line or cell phone line services.

Some municipalities that are divided into electoral wards made the ward boundary decisions on the basis of population, so that each ward has (roughly) the same number of people. The theory is that each elected official for a ward would have about the same workload in terms of the number of people that they represent.

The population between Neebing’s wards as they currently exist is not evenly distributed. As per the voters’ list for the 2018 election, from largest to smallest, there are:

822 people in Blake (Ward 1);
 744 people in Scoble (Ward 5);
 635 people in Crooks (Ward 2);
 324 people in Pearson (Ward 4); and
 160 people in Pardee (Ward 3).

Keep in mind these counts include only persons who are over 18 and who are Canadian citizens. With children and non-citizens, the numbers would change, but the general distribution is fairly accurate. Also, the voters' list counts persons who own property here, but don't live here year round – so permanent resident counts would be lower than these. Seasonal residents are typically at the inland lakes (Scoble and Crooks – with a few at Lake Lenore in Pardee) and also along the Lake Superior coastline (Blake and Crooks).

Although the residents in each ward elect one council member to represent them, we do not require candidates to reside in the ward that he or she is running in. After the 2018 election, the only ward councillor who does not reside in his ward is Councillor Kurikka, who lives in Crooks, but represents Scoble. No one from Scoble Township was nominated to run in the last election.

Administration has not received any complaints from Scoble residents regarding having a councillor who doesn't live in the ward. In the past 2 Council terms, Scoble was represented by Mike McCooeye, who resided in Blake. It does not appear to be an issue for citizens, although in both of the last two elections, the Scoble ward councillor was acclaimed without an election. If an election were to be held, residents of Scoble may question where their candidates for ward councillor reside, and the answer may have an impact on their vote.

At present, each Neebing elector has three votes: one for the candidates running in his/her ward, one for one of the "at large" candidates and one for one of the candidates for the head of council.

DISCUSSION:

Historic Promises/Public Consultation

Current Administration was not in place in 1999 when the geographic townships of Scoble and Pearson were amalgamated into the Municipality. Members of the past term of Council who were on Council at the time have advised, as has Councillor Coulson, that the residents of Scoble and Pearson were promised that they would always have ward representation on Council.

While ward-specific representation may have been important to residents in 1999, things may (or may not) have changed since then.

If Council decides to explore a change in council composition further, Administration recommends that public consultation be a part of any process.

Options for Council Composition

The *Municipal Act, 2001* provides that the smallest size for a municipal council is 5 members. This is the number being suggested by those who wish to consider a change in composition. As noted above, elections may be by ward or at large, or a mixture of each.

(a) All at-large seats:

Council may choose to have all 5 or 7 members of Council elected at large.

Having a completely “at large” election is easier from an administrative standpoint to organize and run, as you have a single voters’ list. Each resident has the same number of votes as there are seats at the council table. While some municipalities dislike such a method, because a majority of the seats could be filled from a single area in the municipality, creating an appearance of bias towards that section, the Municipal Conflict of Interest Act would prevent the application of true pecuniary interests, and (now mandatory) Council Codes of Conduct could be used to “police” any ethical biases that may appear.

Another way to off-set this appearance of unfairness would be to assign a geographic area (not a “ward”) to each member of the Council, regardless of where he or she lives and the fact that he or she was elected “at large”. The head of council may or may not be included in such an assignment exercise. Typically, the head of council is seen as representing “all” residents, so assigning an area would not be the “normal” thing to do, but it is up to the Council to structure its composition as it sees fit.

These geographic areas could be created however council saw fit. 4, 5 or 6 swaths of land could be determined that would have roughly equal populations, for example.

(b) Mixture of wards and at-large elections:

The options (other than status quo) for mixing ward representation with at-large representation are as follows:

Number of members elected at large	Number of members elected by wards
Five members:	
2 + head	2
1 + head	3
Seven members:	
4+ head	2
3+head	3
2+head	4

No option for “one ward” is included, since that equates to “at large”. The authority for Council to divide only “part” of its territory into wards is unclear, although it is arguable. This would be, for example, having Scoble as a stand-alone ward and all other

geographic townships combined into an area represented by persons elected “at large”.

Ward boundaries would need to be adjusted in each of the above options. They can be adjusted independently of the geographic township boundaries or utilizing them. For example, if Council wanted to change to have 4 wards instead of 5, but wanted to stick with the 5 geographic township boundaries, and wanted each area to be closer in population to each other, a logical reconfiguration would be combining Pearson and Pardee.

(c) Ward Elections only:

As noted, the head of Council must be elected at large. Accordingly, with a 5 seat council, you would require 4 wards, or have 2 wards, each entitled to elect two members of the council. With a 7 seat Council, you could have 6, 3 or 2 wards.

If the elections are done by ward only, the residence location of the candidates may become more important to ward residents. If a rule is imposed requiring ward candidates to live in the ward, however, it may be challenging to find candidates for all wards.

Rules for Changing Ward Boundaries

Refer to Attachment One for the rules associated with changing ward boundaries.

Options for Public Consultation

Public consultation can be undertaken in a variety of ways:

- Asking members of the public for input through advertising (Neebing News, Neebing website, Chronicle Journal, Facebook, flyers or posters at the land fill sites and/or bulletin boards such as the one at AJs, direct-mail letters or tax bill insert)
- Circulating petitions
- Holding public meetings (some of which may be required in any event, depending on Council’s decisions)
- Going door-to-door
- Making cold calls
- Hiring a firm, such as Ipsos Reid to undertake a statistically valid survey
- Submitting a question to the electorate

Regardless of the method chosen, information such as that set out in this report should be circulated in advance so that persons providing input are “informed”.

There are rules associated with submitting questions to the electorate. Please see Attachment Two for a review of the rules. In some circumstances (where there is over 50% voter turnout AND over 50% of those who turn out to vote choose the option) the result of the question can be binding on the Council. Where the result is positive, the Council must act on

the answer within a reasonable time frame. Where the result is negative, the Council is prohibiting from acting contrary to the vote for a period of 4 years.

Public Consultation is not mandatory – Council can proceed to make changes without it. Given the municipality's history, however, Administration feels that would not be wise.

Pros and Cons

Please see Attachment Three for an outline of "Pros" and "Cons" relating to reducing the number of members of Council from 7 to 5.

ATTACHMENTS:

- One: Rules Associated with Changing Ward Boundaries
- Two: Rules Associated with Putting a Question to the Electorate
- Three: Pros and Cons listing

AVAILABLE UPON REQUEST:

Copies of relevant legislation

ATTACHMENT ONE: Rules Associated with Changing Ward Boundaries

(Municipal Act, 2001 Sections 222-223)

By-law Passage & Notice

The division of the municipality into wards (or the dissolution of wards, or the re-configuration of ward boundaries) is done through passage of a by-law.

Within 15 days after the by-law is passed, notice of passage of the by-law must be issued "to the public", which specifies that the by-law can be appealed to the LPAT, how it is done, and states the last date on which an appeal can be filed (which is 45 days after the date the by-law was passed).

The Minister of MMAH, or "any other person or agency" may appeal the by-law.

The LPAT will hear the appeal and either confirm the by-law, amend the by-law or repeal the by-law. The by-law isn't considered to have been passed until the appeal decision is issued (unless, of course, the appeal decision repeals the by-law).

The Clerk must send notice to MPAC of the new or re-configured or dissolved wards before January 1st of the election for which the by-law takes effect.

When By Law Comes into Effect

There are two sets of rules for when the by-law takes effect:

- (a) If the by-law was passed (or the LPAT decision issued, as applicable) prior to January 1st of an election year, then it takes effect for the next ensuing municipal election; and
- (b) If the by-law was passed (or the LPAT decision issued, as applicable) in the same year as an election year, then it cannot take effect until the second municipal election after it was passed.

Petition

Electors in a municipality may present a petition to the council to request that a by-law be passed to divide or re-divide the municipality into wards, or to dissolve existing wards.

If the petition has the signatures of 1 percent of all of the electors in the municipality, or 500 of the electors (whichever is less), or, at a minimum, 50 electors, then it is binding on the Council and the Council must act on it. If the Council doesn't act within 90 days of receiving it, those who filed the petition may appeal to the LPAT. The LPAT's decision acts as a by-law of the Municipality, which the municipal council may amend – but it must follow the process set out above for the amendment.

The Divisional Court has ruled that this provision of the Municipal Act, 2001 exists to allow a relatively small number of the electorate to bring to the Council's attention a real (or perceived) inequity in representation at the Council table.

LPAT Authority

Whether the LPAT gets its authority through an appeal of a Council-initiated by-law or a petition to Council, it has the jurisdiction and authority to change the size of the Council through its decision relating to wards.

ATTACHMENT TWO: Rules Associated with Putting a Question to the Electorate

(Municipal Elections Act, 1996, Sections 8.1-8.2)

Process

A question to the electorate can be put at a regular election, or at a special election between regular elections, at the Council's option.

(There are certain specific exceptions in other legislation. An example where the question must go to a regular election is a question as to whether to become a "dry" municipality – not allowing the sale of liquor – under the Liquor Licence Act. An example where the question must go to a special election prior to the regular election is when the council (of a municipality that operates a water system) receives a petition from 10% or more of its electorate asking that the question be put whether or not to add fluoride to the water, under the Fluoridation Act.)

A by-law must be passed to submit the question. Such a by-law cannot be passed after March 1st in an election year. It also cannot be amended after March 1st of an election year (but it can be revoked on or before the 31st day prior to the election).

10 days' notice to the public must be provided, and at least one public meeting held, prior to the meeting at which the by-law is intended to be passed.

The question must be:

- Within the municipality's jurisdiction
- About something other than something the Province has declared to be a matter of provincial interest
- Only answerable by "yes" or "no"

Within 15 days after the by-law forming the question is passed, notice of passage of the by-law must be given to the Minister of MMAH and the general public. This notice must include:

- The wording of the question
- An explanation of the consequences of "yes" or "no" answers to the question
- An estimate of the costs involved in putting the question to the electorate
- An indication of the right to appeal, how to appeal, and the deadline for the appeal (20 days after the date of the notice of passage)

Appeal

The appeal of the by-law is to the Chief Electoral Officer of Ontario – and there are only two possible grounds of appeal, which are:

1. The question is not "clear, concise or neutral"; or
2. The question is not capable of being answered in the affirmative or the negative and/or cannot be answered by "yes" or "no" only.

The Chief Electoral Officer must hold a hearing within 60 days, and make a determination on the appeal. He or she makes an order either dismissing the appeal, or amending the Municipality's by-law or directing the Municipality to amend the by-law. That decision cannot be appealed.

Operation of the Decision

The end result may or may not bind the Council, depending on a number of factors.

The result is binding where:

1. At least 50% of the voters in the municipality voted; and
2. More than 50% of the votes were for either “yes” or “no”.

If these criteria are not met, the question is not binding on the Council – however – the Council can choose to go ahead in accordance with the answer – or against it – as the Council so chooses.

If the result is binding and requires positive action, so the “yeses” won, the Council must act on the question reasonably promptly. If the result is binding and negative, so the “nos” won, the Council is prohibited from acting on the question for a period of 4 years.

As a simple example, take the question:

Should the Municipality paint its fire halls green?

This question is clear, concise and can be answered with “yes” or “no”.

Scenario One: The answer was “yes” and the voter turnout makes the result binding

In that case, the municipality must paint the fire halls green within a reasonable time. If it is winter, and they have to wait until summer; that’s fine. If they have to undertake a tender process that puts them into winter and they have to wait until the next summer, that’s fine too – it has to be “reasonable” how fast it proceeds. The Council is not permitted to sit on its hands and do nothing.

Scenario Two: The answer was “yes” and the voter turnout is too low to make the result binding

In that case, the municipality can paint the fire halls green (or any other colour) or not paint them at all, and there are no time limits.

Scenario Three: The answer was “no” and the voter turnout makes the result binding

In that case, the municipality must not paint the fire halls green for a period of at least 4 years. Nothing restricts the painting of the halls any other colour, however. The question was not whether or not to paint the fire halls – merely what colour paint to use.

Scenario Four: The answer was “no” and the voter turnout is too low to make the result binding

In that case, the municipality can paint the fire halls green (or any other colour) or not paint them at all, and there are no time limits.

ATTACHMENT THREE: Pros and Cons Listing

A) Advantages of Reducing the Size of Council from 7 to 5 members:

- Cost savings (\$10,696.86 per member per year – potential to save \$85,574.88 over one Council term)
- Efficiencies: potentially shorter debate times; meaning either (a) shorter meetings; or (b) ability to put more items on the agenda for a meeting (more work accomplished in less time)
- “matches” our other rural neighbours for council size (optics at joint council meetings; divisions of votes for appointments to committees, acceptance by constituents, etc.)
- Easier to schedule special meetings (2 fewer persons’ calendar commitments to work around)

B) Disadvantages of Reducing the Size of Council from 7 to 5 members:

- Fewer members to take on committee and other workload, such as complaints or other calls from constituents
- More workload per councillor might discourage people from running for council
- More workload per councillor is particularly difficult for those who work full time
- Depending on how the reduction is done; potential for longer term residents of Pearson and/or Scoble to feel “cheated” based on comments made on amalgamation in 1999
- Easier to lose quorum if people travel, go on vacation or become ill – temporary vacancies become of greater concern
- Less ability to have a wide variety of expertise on the Council

C) Considerations relating to Reducing the Size of Council from 7 to 5 members which may be seen as advantages by some; and as disadvantages by others:

- Less work to achieve a majority on an issue (3 people to convince rather than 4)
- Less likely to have acclamations – more likely to have contested elections (i.e. 7 people might compete for 5 seats instead of 7 for 7 seats)