

Municipal Government Act

progressive powers for municipalities

INFORMATION BULLETIN #5

MAYORS and WARDENS

Summary: Mayors in towns and regional municipalities are elected at large; in county or district municipalities, the choice of electing the chair of the council at large or from among the council is made by the council.

Legislation: Specific - Section 12

Related - Section 16

Discussion: **Towns and Regional Municipalities**

In towns and regional municipalities, the mayor continues to be elected at large.

County or District Municipalities

In rural municipalities (referred to in the *Municipal Government Act* as county or district municipalities) the head of council continues to be elected by the council members from among themselves unless altered by the council. Council may choose to have the head of the council elected at large. A head of council elected at large is known as a mayor. A head of council elected from the council members continues to be known as a warden.

The term of office of the warden is usually the term of office of the council. However, councils are now able to set a shorter term if they choose, by policy. The decision to elect a warden from the council for less than the full term of the council (four years starting in 2000) must be made before the warden is elected, that is, at or before the first meeting of the council after the year 2000 municipal elections. See s.12 (2). Otherwise the warden holds office for the full term of the council.

The term of office of a mayor elected at large is always the term of office of the council.

A warden may be removed from office by a vote of two thirds of the council: s.12(7). This provision does not apply to mayors elected at large.

Changing from Warden to Mayor

If a county or district municipality wishes to change to having the head of the council elected at large, it must make a determination at least nine months before the next regular municipal election: s.12(8). For the year 2000 elections the decision would have to be made by mid-January, 2000.

If there is concern about keeping the council the same size, the decision to have a mayor elected at large should be made early enough to allow time to apply for a reduced number of polling districts. In clause 12(8) © the MGA provides that the membership of the council will automatically be increased by one, to preserve the existing polling districts, if a mayor is to be elected at large. The council may apply to the Nova Scotia Utility and Review Board to reduce the number.

Changing from a warden elected by council to a mayor elected at large might be considered during the polling district reviews required in 1999.

A decision to have the head of council elected at large may not be reversed after February 15 in the year in which the mayor is first to be elected at large; it is a one-way choice: s.12(9). Once a mayor has been elected at large in a county or district municipality all future mayors will be elected at large.

Councils that wish to consider the election of a mayor at large will be balancing concerns of direct democracy and a direct mandate for the mayor against the expense and difficulty of elections across the whole municipality and the benefit of having, at least initially, the confidence of a majority of the council. These factors will undoubtedly weigh differently with different councils. The attached issue paper sets out most of the relevant considerations.

Deputy Mayor and Deputy Warden

The term of office of the deputy mayor or deputy warden must be set by council by policy: s.16(2). As the Act does not provide for a term of office for these positions, the term must be set before a deputy warden or deputy mayor are elected. Otherwise the deputy mayor or deputy warden has no term of office, and the election will have to be repeated after the term has been prescribed.

Resources: Attached Issue Paper, Method of Choosing Chief of Magistrate, DHMA, 1993.

Date Produced: February 1999

Note: The reader is cautioned that preparation of this and subsequent Information Bulletins containing practical suggestions must necessarily involve interpretation of legislation as it applies in general situations. Specific situations may require careful legal analysis and therefore reference should be made to the *Municipal Government Act*, other relevant legislation and to legal advisors.

ISSUE PAPER

Appendix to Information Bulletin #5 - Mayors and Wardens

METHOD OF CHOOSING THE CHIEF MAGISTRATE

Like other provinces, Nova Scotia has adopted two principal methods of choosing the chief magistrate as head of a municipal council. In the Province's rural municipalities, the chief magistrate (or warden¹) is selected by and from among council members at the first council meeting following a general election. In the towns and cities, the chief magistrate (or mayor) is elected at large.

Each model has its strong and weak points. The procedure followed in rural municipalities avoids the problem of candidates campaigning in large geographic areas. Many local campaigns are run from "the kitchen table". If wardens were elected at large, candidates could be hard-pressed to campaign effectively throughout the municipality.

Selection of the warden from among councillors can help to establish good working relationships on council. The procedure demonstrates council's confidence in their chief magistrate. It enhances consensus-building and reduces the likelihood of friction around the warden.

However, the procedure also means that the warden is only first among equals and his or her primary accountability is to council itself. This can be a problem if the views of the warden are at variance with the majority of council. Also, in some cases, the selection process and the competition among councillors for the warden's office can create permanent rifts and power cliques on council. There have been a few attempts in the past to dismiss wardens, but they were unsuccessful primarily because there is no provision for council to do this.

Another difficulty is that, apart from being the head of council, the warden is also regarded as the political leader of the municipality. Yet, except for electors in the warden's district, there is no direct electoral means by which all voters in the municipality can express approval or otherwise of their chief magistrate. At the same time, the warden's responsibility to represent his or her electoral district may lead to parochialism or the appearance of it. All this may undermine the warden's legitimacy to represent and speak for the municipality as a whole.

The alternative approach involving election of the chief magistrate by the general vote is

¹Except in the Municipality of the County of Halifax where the term Mayor is now used.

the ultimate in the democratic process. It achieves the "one person one vote" principle of direct democracy. In theory, it also means that any qualified elector has a chance to seek mayoralty office. However, in practice, it would be difficult for most electors to run as serious candidates. It is usually ex-councillors who offer as mayoralty candidates.

Under this model, the candidate elected as mayor is directly accountable to the municipal electorate and not to council. As a consequence, the model may build into the system conflict between the mayor and council. For instance, the mayor could be elected on a platform or have a position on a range of policy issues opposed by the majority of councillors. This could be a recipe for acrimony on council. The mayor could be rendered ineffective by a council that may have different priorities. However, in practice, it is not that bleak because the mayor usually votes only in a tie and generally acts impartially as chair in council proceedings. Council may still function effectively, depending on the goodwill of all members and the skills of the mayor in developing a team spirit. At the same time, the public may become increasingly aware of the importance of leadership skills when reviewing election platforms of mayoralty candidates.

On the positive side, the mayor's office is a high profile one. The general vote gives the mayor the legitimacy to be the ambassador, spokesperson and political leader of the entire municipality. A mandate from the general public probably strengthens the mayor's leadership role and this may encourage council to follow the mayor's lead and direction in developing and carrying through council plans and Policies.

If a municipal unit is very large and lacking in essential infrastructure (communications network, media), campaigning by candidates throughout the unit may be less effective. Some of the areas to be amalgamated into unitary municipalities will be large rural areas. Name recognition of candidates could be a problem. Some of them would have little chance of becoming known outside their own neighbourhoods. Choice of the chief magistrate by the council could be appropriate in such units. However, generally speaking communications in Nova Scotia municipalities are quite good, and very much improved over the days when their boundaries were first established.

In Cape Breton and Halifax counties, the availability of media, communications and transportation network is probably sufficient to overcome this problem. Election campaigning could be more costly than at present. But candidates would have a much larger base for donations², volunteers, and other resources.

²The Department conducted a study on election contributions and spending limits following elections in 1988. The issue arose from metro area. Most units are not in favour of introducing regulations, and see controls as completely unnecessary.