

**To:** Wellington County Council  
**Date:** September 26, 2024  
**From:** Nigel Bellchamber, N.G. Bellchamber & Assoc.  
**Subject:** Opportunities to Enhance Transparency of Council Decision Making

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## **Summary of Recommendations**

### **Recommendation #1**

**That Reports to Committees and Council be signed by the preparer and endorsed by the department head as well, and also the County Treasurer if a budget amendment is included in the recommendation.**

### **Recommendation #2**

**That recommendations contained in reports be placed at the beginning of each report in order that the reader can view the background analysis with an appreciation of the direction that the report is taking.**

### **Recommendation #3**

**That if oral reports are presented at Committee, or if substantial information is added to the advance written submission by staff , that the oral information either be reflected in an amended report or addendum accompanying the minutes.**

### **Recommendation #4**

**That the quality of the reports going forward from Departments to Committee and Council be considered in the formal performance evaluation process for Senior Management.**

### **Recommendation #5**

**That the County's Solicitor or Closed Meeting Investigator be consulted regarding the participation of non-members of Committee who are also members of Council in the discussions and decision-making at Committee meetings.**

### **Recommendation #6**

**That resolutions in Council and Committees to exclude the public from a meeting or part thereof cite not only the relevant provisions of the legislation allowing such exclusion, but also the general nature thereof as required by law.**

### **Recommendation #7**

**That doors to meetings of Committees be kept open unless a resolution has been passed to exclude the public.**

### **Recommendation #8**

**That meetings of Committees and of County Council be livestreamed to the public, and that copies of the videos be archived and accessible on the County website.**

### **Recommendation #9**

**That County Council eliminate the use of Committee of the Whole during a Council meeting for the purposes of presentation of Committee Reports.**

### **Recommendation #10**

**That the County's Transparency Policy be reviewed in light of changes in the technological environment since 2008.**

## **Background and Analysis**

This report is the result of a decision by Council, at the recommendation of Warden Lennox, to review the transparency of County Council decision making. The process used included a review of related County documents, individual telephone interviews with all members of County Council but one, and lengthy conversations with the County CAO and Clerk.

The author is a former County CAO and has also served as a municipal Closed Meeting Investigator, Integrity Commissioner, and partnered in the training of thousands of municipal elected and appointed officials over the last two decades.

The approach taken was premised on the definition of transparency being "*the ability of the public to observe how decisions are made*".

Decisions are made by municipal Councils pursuant to the Municipal Act 2001 which requires all meetings of Councils and committees to be open to the public in Section 239(1). There are limited exceptions when the public can be excluded from discussions, but the decision-making process and the actual exercise of corporate power can only be done in public session.

County Councillors are also be involved in decision making related to the County Library Board, its Police Services Detachment Board and as members of a Land Division

Committee. These bodies are separate legal entities governed by specific legislation and are not the subject of the review.

It should be pointed out that the impetus for this review was not made as a result of public complaints or reports from accountability officers such as the County's Closed Meeting Investigator or Integrity Commissioner. The initiative came from County Councillors on the recommendation of the Warden, and itself can be considered a positive sign.

The approach taken in this review by the consultant was to first review documents such as minutes, reports and agendas, the County's Procedure Bylaw, and then discussions regarding process and historical context with the CAO and Clerk who were both quite open in their participation, exhibiting a desire to implement beneficial change.

The review then turned to individual telephone discussions with each member of County Council. These conversations usually lasted between sixty and ninety minutes and were structured to focus on several questions.

The first was "Are you satisfied with the way that, and the timeliness of issues, being placed before Council and Committees?" recognizing that for the most part staff control the development of agendas in municipal government. Without exception, members answered in the affirmative.

The next question was "Are you satisfied with the reports that accompany the issues that are on Council and Committee agendas?" . The replies were largely positive with some exceptions, usually related to specific instances or issues.

Discussion then followed in response to the effectiveness of the Standing Committees where issues were introduced, debated and recommendations made to Council. Members all expressed the opinion that the Standing Committee process served Councillors and the public well. A number mentioned that they appreciated the ability to attend and sometimes speak at Committees where they were not formally a member. There were also comments regarding the facilities in which some meetings were held.

When asked if the Committee of the Whole process as used during County Council meetings was actually necessary to allow for more fulsome discussion as is contemplated in Westminster Parliamentary Procedure, members did not voice strong opinions. They did allow generally, that it was probably confusing to the general public or a new member of County Council. Most remarked that the process was not a regular feature of their local municipal council meetings.

The ability of individual members of the public to observe decisions being made at Committee and Council was discussed. County Councillors did note that every local

Wellington municipal Council currently broadcasts their municipal meetings, makes archived copies available for later viewing, and that electronic attendance did indeed exceed the in-person attendance. It was also noted that facilities for some Committee meetings were not conducive to public attendance.

An important element of municipal decision making is making those decisions available to the public. It was unanimously agreed that through its website, through specialized communications and reports, and also as a result of having a more extensive local media presence in Wellington than in other Counties that Council decisions were widely disseminated and understood by those taking an interest in Council affairs.

The following recommendations , with a brief commentary on each, follow from the discussions noted above and from the experience of the consultant as an outside observer.

It is not unusual for a local practice to vary from the norm or best practices when no problem arises to cause it to be examined. Some of the recommendations that follow are made to prevent Wellington County Council from experiencing problems that have occurred elsewhere.

#### **Recommendation #1**

**That Reports to Committees and Council be signed by the preparer and endorsed by the department head as well, and also the County Treasurer if a budget amendment is included in the recommendation.**

This recommendation would make it clear to the reader, Councillor or member of the public, that the contents and recommendations contained therein have the support of the senior technical manager involved in that function, and that they can be approached with questions.

#### **Recommendation #2**

**That recommendations contained in reports be placed at the beginning of each report in order that the reader can view the background analysis with an appreciation of the direction that the report is taking.**

This is considered a best practice, both in municipal governments and in business report writing courses. Why? It is preferred because the reader from the outset knows the direction that the body of the report is taking him or her and can read it with that in mind. A second reason is that Councillors are very busy people, frequently with hundreds of pages of agenda material to review. If the reader is familiar with the issue and they support the recommendation they can then focus on other issues requiring their attention. The same applies to members of the public.

### **Recommendation #3**

**That if oral reports are presented at Committee, or if substantial information is added to the advance written submission by staff , that the oral information either be reflected in an amended report or addendum accompanying the minutes.**

On occasion, commentary, discussion or questions at a Committee meeting can elicit substantial additional information that was not in the initial staff report. If that is the case, then that information needs to be written down in order that Councillors who ultimately will decide on the issue at County Council, will also have the benefit of that information, and that the decision-making process not have to rely on the memory of the report presenter at County Council. Additionally, if the information is important, then it should be available to all before the decision is being made so that they can give it the consideration it deserves.

### **Recommendation #4**

**That the quality of the reports going forward from Departments to Committee and Council be considered in the formal performance evaluation process for Senior Management.**

Most performance management takes place in daily coaching, addressing problems as they arise, individual mentoring and so forth . An annual or semi-annual review is not sufficient on its own. However, difficult as they are to conduct, all staff should be subject to an additional periodic performance review that is not just a paper exercise and one that focusses on key performance indicators for the position. High quality reports to Committee and Council are one of those KPIs for senior staff.

### **Recommendation #5**

**That the County's Solicitor or Closed Meeting Investigator be consulted regarding the participation of non-members of Committee who are also members of Council in the discussions and decision-making at Committee meetings.**

This recommendation comes from commentary that Committee meetings may involve sufficient committee members, and non-members who are also County Councillors to equal or exceed a quorum of County Council. The Municipal Act 2001 in Section 238(1) states

*“meeting” means any regular, special or other meeting of a council, of a local board or of a committee of either of them, where,*  
*(a) a quorum of members is present, and*

*(b) members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the council, local board or committee*

Discussion referenced the fact that on some occasions, members of County Council who were not members of Standing Committees were in attendance at meetings in such numbers as to result in a Council quorum being present and they participated in discussions regarding matters before the Committees.

A Closed Meeting Investigator might find that the Committee meeting or a part of it was thus an improperly held meeting of Council. Reports have been issued clearly noting that achieving a quorum alone does not alone make it to a meeting of the body. Part (b) of the definition needs to occur as well. Reports have also been issued with findings where (b) was satisfied and the meeting improperly held. But the Closed Meeting Investigator cannot impose any penalty

However, there is precedent for a municipal Council decision being overturned at the Supreme Court of Canada when a decision was deemed to have been made outside of the public Council meeting.

This report recommends seeking advice to avoid any similar challenge.

#### **Recommendation #6**

**That resolutions in Council and Committees to exclude the public from a meeting or part thereof cite not only the relevant provisions of the legislation allowing such exclusion, but also the general nature thereof as required by law.**

The Courts have ruled that the resolution should satisfy both requirements unless it would, in disclosing the general nature, impair the rights of the municipal corporation or another party. That is rarely the case. It can be as simple as “to allow for the acquisition or disposition of land, *for purposes of road widening*”.

#### **Recommendation #7**

**That doors to meetings of Committees be kept open unless a resolution has been passed to exclude the public.**

Even when a door is closed to avoid noise and a sign welcomes entrance, it can be intimidating. So can a cramped space. Council should look at holding Committee meetings in larger spaces, that do not deter in-person public attendance.

### **Recommendation #8**

**That meetings of Committees and of County Council be livestreamed to the public, and that copies of the videos be archived and accessible on the County website.**

To adopt this recommendation would bring County Council in line with local Councils, and many other Councils across Ontario. It may be more important for County Councils than local even, since the distances from residences to Council Chambers is greater and because County Council budgets have become quite significant in light of Provincial responsibility transfer.

Equipping the Council Chambers for broadcasting and recording would also give the same capacity to Committees and other bodies with limited additional expense.

### **Recommendation #9**

**That County Council eliminate the use of Committee of the Whole during a Council meeting for the purposes of presentation of Committee Reports.**

I have an assumption as to why this practice arose, but no one raised it with me as an argument when I questioned the process. It does not appear to add to transparency. In fact, it detracts in my opinion, particularly for new members and for members of the public.

### **Recommendation #10**

**That the County's Transparency Policy be reviewed in light of changes in the technological environment since 2008.**

The County adopted a Transparency Policy by bylaw in 2008 pursuant to Section 270 of the Municipal Act 2001. It is indexed on the County website with a copy available on request.

Policies of Council should be subject to a periodically scheduled review, and should capacity limit the posting of all bylaws, a review of those that relate to Council decision making should be available without a request.

### **Additional Comments**

There were comments made in the consultation with Councillors that did not impact directly on matters of transparency in decision-making, such as Council Composition for example, so I did not include them.

Some of the above recommendations could be implemented immediately by Council, such as #6, or acted upon quite quickly through administrative action. And then others will take a little longer time for external research and Council consideration.

I anticipate that the results will require some amendments to the Procedure Bylaw. I encourage administration to take the opportunity to include with those changes others that would arise through a thorough review of that bylaw by the Clerk , with external expertise to assist her on a timely basis.

*Nigel Bellchamber*

September 2024