

A Ward Boundary Review for Toronto

Date:	May 13, 2013
To:	Executive Committee
From:	City Manager
Wards:	All

SUMMARY

This report responds to the Executive Committee's request that the City Manager report on a ward boundary review process to reflect effective representation within Toronto. At present, there are significant discrepancies in population amongst Toronto's ward boundaries that warrant a review. The *City of Toronto Act* provides City Council with authority to make changes to its ward boundaries.

The division of ward boundaries is the very basis of representative democracy and must be approached without any preconceived ideas of final ward boundaries such as for example, pre-judging the number or populations of wards. The process must be independent and unbiased, include substantial public consultation, and comply with principles set out by the Supreme Court of Canada, Ontario courts and the Ontario Municipal Board (OMB).

This report requests authority for the City Manager to retain a third-party consultant to undertake a ward boundary review for Toronto. During 2013 the consultant will conduct research, develop a work plan and undertake other preparatory work.

The report recommends that City Council approve the consultant's work plan and engagement strategy in winter 2013/2014 and consider ward boundary options and recommendations in spring 2016. After a period for possible appeals to the Ontario Municipal Board, adjustments to Toronto's ward boundaries should be implemented in time for the 2018 municipal election.

The consultant will undertake a review process that applies judicially recognized principles, considers leading electoral and public policy research and advice and implements a two-step broad engagement and consultation strategy with the Toronto public, communities, key stakeholders, the Mayor and City Councillors. The first consultation will focus on input and considerations for Toronto's current ward boundaries and the second consultation will focus on broad input on ward boundary options.

RECOMMENDATIONS

The City Manager recommends that City Council:

1. Authorize the City Manager to retain a third party consultant to undertake a Ward Boundary Review for Toronto consistent with the Terms of Reference attached in Appendix B.

Financial Impact

Costs to conduct a ward boundary review for Toronto will be significant and are estimated to be at a minimum of \$750,000 including costs to retain the consultant and undertake two rounds of broad based consultation. There will also be internal project management costs associated with this initiative.

Funds are available in the 2013 approved operating budget to retain a third party consultant for initial work. Additional costs will be identified in the 2014 operating budget and in the consultant's work plan which will be considered by Council in spring 2014. These additional costs will be included in future year's budget processes as required.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

Equity Statement

The principles articulated by the courts in relation to ward boundary reviews support the City's equity framework, and equity goals and objectives. The third-party consultant will be required to incorporate equity considerations in their work plan, throughout the review process and in the engagement and consultation strategy.

DECISION HISTORY

On April 15, 2010, in consideration of the 2010 Operating Budget, City Council requested that the City Manager and the City Clerk report to City Council, through the Executive Committee, early in the next term of City Council, on a mechanism to recognize the uneven population growth in some wards, together with accompanying recommendations for the appropriate allocation of resources. Council also authorized the City Manager to provide one additional staff member at the constituency assistant level for any ward which exceeds the median by more than 50 percent in both population and households, funded through the Council General Expenses Budget, until such time as the report is considered by City Council.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.EX42.1>,
<http://www.toronto.ca/legdocs/mmis/2010/cc/bgrd/backgroundfile-29379.pdf>

On March 19, 2012, the Executive Committee recommended that the City Manager report back on the process for establishing a ward boundary review to better reflect effective representation within the City of Toronto, including possible governance implications, and to ensure that the report include principles that take into account the impact of community revitalization plans; and population densities anticipated in any future Official Plans and Zoning By-laws.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX18.12>

COMMENTS

1. Background

Toronto is the largest city in Canada, and contains a wide diversity of communities and interests. A strong and fair foundation for local government is fundamental for the effective governance of Toronto, and begins with the ward structure. Ward boundaries are dynamic and should not be considered permanent fixtures as local government structures must keep pace with population changes and municipal growth.

Council last reviewed Toronto's ward boundaries in 2000 and since that time some Toronto wards exceed or are approaching the plus or minus 25 percent population variance benchmark for acceptable differences in electoral boundaries as established by the courts.

Ward population variances leave the City vulnerable to a petition under the *City of Toronto Act* to adjust its ward boundaries. Council has 90 days after receiving a petition to adjust ward boundaries accordingly, after which time one of the people who signed the petition can request the Ontario Municipal Board (OMB) to adjust Toronto's ward boundaries thereby removing this power from Council.

The population of each of Toronto's 44 wards is attached as Appendix A.

2. City Council's Authority to Adjust Ward Boundaries and Legal Considerations

Under the *City of Toronto Act, 2006* (COTA), City Council has authority to make changes to its ward boundaries through the passage of a by-law. Toronto's ward boundaries do not and are not required to align along federal and provincial riding boundaries.

While COTA sets out the statutory requirements for the enactment of ward boundaries, the expectations regarding a ward boundary review have been largely set out by the courts. The Supreme Court of Canada has set out guidelines for drawing of electoral boundaries and has established that governments must respect the principle of "effective representation."

The first condition that courts consider for effective representation is voter parity, an equal number of voters in every electoral area, but effective representation rather than voter parity is the goal. The Supreme Court has recognized that other factors such as geography, community interests, community history and minority representation justify departure from voter parity to ensure effective representation.

The OMB has applied the Supreme Court factors to justify departures from voter parity in decisions related to municipal ward boundary appeals and identified that the population size of each electoral district should not deviate by more than plus or minus 25%.

3. Municipal Ward Boundary Reviews – Ottawa’s Experience

The City of Ottawa's ward boundary review may serve as a helpful guide for Toronto’s process. Ottawa took five years and two rounds to complete their ward boundary review.

Ottawa's first ward boundary review process began in July 2001 and their City Council enacted a by-law to adjust ward boundaries about a year later. In 2003, the OMB allowed an appeal of Ottawa's ward boundary by-law and ruled that it was invalid.

The OMB found that Ottawa's ward boundary review gave too much weight to the concept of "representation by population" and not enough to "effective representation." They applied the Supreme Court's approach whereby voter parity could be modified on the basis of geography, community history, community interests and minority representation. The OMB also found that the Ottawa ward boundary review process did not include adequate public participation, including consulting the public on ward boundary options.

The City of Ottawa repeated their ward boundary review and made some key changes to their process based on the OMB decision including retaining a third party consultant to undertake the review and undertaking a two-stage broad consultation strategy involving the public, communities, stakeholders, the Mayor and Councillors. Their consultation strategy entailed a first round of consultation to elicit preliminary input and ideas on their ward boundaries and a second round focused on ward boundary options.

4. Toronto Ward Boundary Review Process and Time lines

Toronto’s ward boundary review must follow an independent and unbiased process that includes substantial public consultation and complies with principles set out by the courts, including the Supreme Court of Canada, and the OMB. Ward boundary changes can be contentious and are often appealed so Toronto’s process must be as legally robust as possible.

The ward boundary review must provide adequate time to consider a range of options and allow ample time for public consultation. The time required for possible appeals to the OMB must also be considered as well as requirements to implement any changes to Toronto's wards in time for the 2018 municipal election.

This report recommends a Toronto ward boundary review be initiated and that the City Manager be authorized to retain a third party consultant to undertake the review based on the Terms of Reference attached as Appendix B. The Terms of Reference are consistent with other municipal ward boundary reviews, include legally recognized principles and requirements and incorporate lessons learned from Ottawa’s ward boundary review process.

The proposed timeline for Toronto’s Ward Boundary Review is as follows:

- Spring 2013 – City Council approves undertaking a ward boundary review for Toronto and authorizes the City Manager to retain a third party consultant.

- Fall 2013 – Consultant is retained and begins research, work plan development, and other preparatory work.
- Winter 2013/2014 – City Council approves the consultant’s work plan including a two stage engagement strategy and estimated financial impacts.
- 2014/2015 – The ward boundary review process is underway including broad engagement and consultation with the Toronto public, communities, key stakeholders, the Mayor and Councillors.
- Spring 2016 – City Council considers the consultant’s report including ward boundary review options and recommendations.
- Spring 2016 to end of 2016 – Approximate time for possible appeals to the OMB or Divisional Court.
- 2016 and 2017 – Ward boundary changes are implemented and election readiness is undertaken.
- Fall 2018 – 2018 Municipal election.

The consultant will be responsible for performing all aspects of the ward boundary review process including research, engagement and consultation, the formulation of ward boundary options, and the preparation of a final report and recommendations for City Council's consideration.

The consultant will provide a work plan for City Council’s approval in winter 2013/2014 including required ward boundary research and an engagement and consultation strategy with Toronto residents, communities, key stakeholders, the Mayor and City Councillors. A broad two-stage engagement and consultation strategy has been included to: (1) elicit broad input and considerations on Toronto’s current ward boundaries and (2) obtain input and feedback on ward boundary options. The consultant will develop ward boundary options and recommendations for Council’s consideration in spring 2016. To ensure the review considers current research and advice, the third party consultant may consult with academic, public policy, electoral and other experts during Toronto’s ward boundary review process.

The City Manager will oversee the contract with the consultant including transmitting the consultant’s reports to City Council, through Executive Committee, for consideration and approval. City Council will determine the ward boundary review process and any new ward boundary by-law following the review.

CONCLUSION

This report responds to Executive Committee's direction that the City Manager report back on a ward boundary review process. The City's current ward boundaries have been in place since 2000 and there are now considerable discrepancies in population amongst the current wards. This report recommends a ward boundary process to begin in 2013 and to conclude in spring 2016 so that any adjustments to the City's ward boundaries can be implemented in time for the City's 2018 election.

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SIGNATURE

City Manager

ATTACHMENTS

Appendix A – Population of Toronto Wards

Appendix B – Terms of Reference for a Toronto Ward Boundary Review