

Follow-up Report on the Toronto Ward Boundary Review

Date: October 18, 2016
To: Executive Committee
From: City Manager
Wards: All

Public Notice Given

SUMMARY

Toronto's ward boundaries have not been reviewed since 2000 and there are currently significant population discrepancies in some Toronto wards. In June 2013, City Council directed that a third-party review Toronto's ward boundaries, per an approved Terms of Reference and work plan. The *City of Toronto Act, 2006* provides authority to City Council to make changes to its ward boundaries by by-law.

The Canadian Urban Institute, together with Beate Bowron Etcetera, The Davidson Group and Thomas Ostler (the "Consultant"), were retained to conduct a third-party review of Toronto's ward boundaries.

This report transmits the Consultant's reports: *Toronto Ward Boundary Review Final Report* and *Supplementary Report*, in response to the May 24, 2016 Executive Committee's direction asking the City Manager to request the Consultants for additional information on four (4) potential additional ward boundary options:

- i) **46/47 wards** – a review of Recommended Option 1 (47 wards) to determine if effective representation could be achieved focusing on changes to the city's current largest wards only;
- ii) **44 wards** – a review of Option 2 (44 wards) to determine if effective representation could be achieved by incorporating suggested refinements from the Toronto Ward Boundary Review process' Round 2 consultations in 2015;
- iii) **25 wards** – a review to determine if effective representation could be achieved if the city's ward boundaries were made to be consistent with federal and provincial riding boundaries (25 wards); and
- iv) **47 wards** – a review of the Recommended Option 1 (47 Ward) incorporating any additional input received from the public and Members of Council during the consultation process supporting the development of the Consultant's *Supplementary Report*.

The Consultants determined that one ward boundary model based on the Executive Committee's direction (the Minimal Change – large wards adjustment, 46/47 ward model) was not viable as it would not meet the established standards of "effective representation" required of the City's ward boundary structure. The Consultant provides analysis on the remaining three (3) ward boundary structure models identified above.

The Consultant continues to recommend a ward structure of 47 wards with an average ward population of approximately 61,000 to ensure effective representation given population growth in Toronto over the last 15 years. The Consultant's final and supplementary reports recommend a ward boundary structure that applies judicially recognized principles, considers leading electoral and public policy research and advice, and draws upon the input received through both a two-step broad engagement and consultation strategy and an additional follow-up engagement strategy with Members of City Council and the public. The full list of seven (7) options provided by the Consultant, each of which achieves effective representation (with a variance of either 10% or 15%), is attached as Appendix 5 to this Report.

The *City of Toronto Act, 2006* provides a period for appeals of ward boundary decisions to the Ontario Municipal Board (OMB). Appeals to Divisional Court are also possible. Any ward boundary changes will take effect for the next regular election if the by-law to adopt them has been enacted and any appeals to the by-law have been concluded prior to December 31, 2017. Otherwise, a by-law changing ward boundaries would not apply until the 2022 election.

RECOMMENDATIONS

The City Manager recommends that:

1. City Council consider the enclosed, *Final Report: Toronto Ward Boundary Review* and *Supplementary Report: Toronto Ward Boundary Review* (Attachments 1 and 3), approve a ward boundary structure and direct the City Solicitor to submit the bill designating the wards to City Council.
2. City Council direct that the composition of City Council be one (1) Councillor per ward pursuant to the ward boundary structure approved and instruct the City Solicitor to submit a bill to implement any change to the composition of City Council after either the appeal period has expired without any appeals, or the appeal process for the ward boundary by-law has concluded.
3. City Council request the City Solicitor to represent the City's interests in any legal proceedings including appeals relating to City Council's decision.

FINANCIAL IMPACT

The *Toronto Ward Boundary Review Final and Supplementary* reports from the third-party Consultant recommends the establishment of three (3) new wards. The annual operating cost for each Member office is approximately \$290,000, or a total annual estimated operating cost of \$870,000 to establish three (3) new wards. An additional \$70,000 per Member, for a total of \$210,000 may also be required for one-time start-up costs to set up City Hall and Constituency Offices.

Costs associated with City Council's final ward boundary changes will be submitted through the annual Operating and Capital Budget process as required.

The Deputy City Manager & 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 Consultant incorporated equity considerations in their work plan, throughout the review process and in the engagement and consultation strategy. As part of the review's engagement process the Consultant ensured that American Sign Language (ASL) translation services were available, provided additional translation services on request and provided for TTY translation as necessary. The Consultant also worked with the City to identify *Accessibility for Ontarians with Disabilities Act, 2005 (AODA)* compliant sites to hold public engagement sessions and ensured the Review's web communications were compliant with AODA standards.

The Toronto Ward Boundary Review applied the principle of effective representation throughout the ward boundary assessment, development, consultations, and option identification. Effective representation aims to achieve representational and voter equity in the determination of electoral ward boundaries through the balance of voter parity, geographic communities of interest, natural/physical boundaries, electoral ward history, population growth, the capacity to represent and the geographic shape and size of electoral ward boundaries. The principle of effective representation is consistent with the City's equity framework, equity goals and objectives, and ensures public input is independently considered in the determination of ward boundary options provided to City Council for consideration, and is the legal test that will be applied to any ward boundary approved by City Council.

DECISION HISTORY

Consideration of Consultant's TWBR Final Report

On May 24, 2016, Executive Committee considered EX15.2 *Final Report - Toronto Ward Boundary Review* and referred the report to the City Manager with the motion that

the City Manager request the Consultant to review three (3) additional ward boundary models, consult the public, stakeholders and Members of Council, and provide a follow-up report to be submitted to the October 26, 2016 of the Executive Committee for consideration with the *Toronto Ward Boundary Review – Final Report*.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX15.2>

Approval of TWBR Work Plan

On June 10, 2014, City Council approved the EX42.4 *Draw the Line: Toronto Ward Boundary Review Project Work Plan, Civic Engagement and Public Consultation Strategy* submitted by the Canadian Urban Institute.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EX42.4>

Award of Contract to Consultants to Undertake TWBR

On March 5, 2014, following a Request for Proposal process, Bid Committee awarded the contract for the provision of services to conduct an independent, objective analysis and review of the City of Toronto's ward boundaries to the Canadian Urban Institute.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.BD167.7>

Direction to Retain a Consultant to Undertake TWBR

On June 11, 2013, City Council authorized the City Manager to retain a third party consultant to undertake a Ward Boundary Review consistent with the Terms of Reference.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EX32.2>

Direction to Report on a Process to Review Toronto's Ward Boundaries

On March 19, 2012, the Executive Committee recommended the City Manager report on a process to establish a ward boundary review to better reflect effective representation.

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

Direction to Report on a Mechanism to Recognize Uneven Population Growth in Wards & Authorization to provide an additional Constituency Assistant staff for large wards

On April 15, 2010, City Council requested the City Manager and the City Clerk to report on a mechanism to recognize the uneven population growth in some wards, with 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 that exceeds the median by more than 50 percent.

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

ISSUE 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. Toronto ward boundaries do not currently and are not required to align with federal and provincial riding boundaries.

The *City of Toronto Act* provides City Council with authority to make changes to its ward boundaries. City Council last reviewed Toronto's ward boundaries in 2000 and since that time Toronto has experienced significant population growth.

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, communities of interest, community history, minority representation, and projected population growth 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.

COMMENTS

1. Initiating a Ward Boundary Review for Toronto

City Council initiated a ward boundary review in 2013 to address population growth in Toronto as a number of wards were exceeding or close to exceeding acceptable benchmarks for electoral boundaries. To ensure the review was objective and arms-length, the City Manager retained a third-party Consultant to undertake the review process following Terms of Reference approved by City Council.

The Terms of Reference established that the consultants would undertake the ward boundary review pursuant to the following parameters:

- Develop a ward boundary review process, work plan and engagement and consultation strategy that does not assume a pre-determined number of wards or specific boundaries of wards for Toronto;
- Apply the principle of "effective representation" as outlined by the Supreme Court of Canada and applied by the courts and the OMB in developing ward boundary options;
- Consider and reflect the principles of geography, community history, minority representation, communities of interest, physical and natural boundaries in developing ward boundary options;
- Adhere to requirements set out in relevant OMB and court decisions about undertaking municipal ward boundary reviews;
- Consider and accommodate Toronto's projected growth and population shifts for a reasonable period of time;
- Build on lessons learned through other ward boundary reviews and leading electoral and public policy research and advice;
- Consider key City policies in the development of ward boundary options including the Official Plan and community revitalization plans;
- Include at least two rounds of broad and comprehensive public consultation: the first to provide information to support informed engagement and solicit feedback on

existing ward boundaries; and the second to provide information and solicit feedback on ward boundary options;

- Consider the appropriate number of wards as well as ward boundaries; and
- Work within any additional parameters established by City Council.

2. Overview of the Toronto Ward Boundary Review Process

City Council approved the Consultant's work plan and outreach and engagement strategy to undertake a ward boundary review from June 2014 to March 2016.

The Consultant undertook a six-step review process to develop ward boundary options including a recommended option. The Ward Boundary Review process included:

A. Research (June 2014 to November 2014)

Formed the background information for the first round of public consultation including the legal context, jurisdictional reviews, analysis of Toronto's current wards and ward population projections out to 2030.

B. Civic Engagement (Round One: June 2014 to February 2015 and Round Two: May 2015 to November 2015)

Web-based activities (including social media platforms), communication and outreach to educate the public about the purpose of the ward boundary review, keep the public informed about the process and provide a range of opportunities for the public to get involved.

C. Public and Stakeholder Consultation (Round One: June 2014 to February 2015 and Round Two: June 2015 November 2015)

Included two rounds of public and stakeholder consultation.

D. Generation of Ward Boundary Options (March 2015 to April 2015)

Following Round One of the public and stakeholder consultation, and building on the research, a series of ward boundary options were developed for public and stakeholder input in Round Two.

E. Final Report (February 2016 to March 2016)

Following Round Two of public and stakeholder consultation, the final report was developed with a recommended ward boundary structure for City Council's consideration.

F. Request for Additional Information (May – October 2016)

Following the Executive Committee's consideration of EX15.2 *Final Report – Toronto Ward Boundary Review*, the Executive Committee asked the City Manager to request the Consultants to undertake research, analysis and consultations with the public and

Members of Council on four (4) identified ward boundary options and report back to the Executive Committee's meeting on October 26, 2016. The TWBR Consultants conducted four (4) public meetings across Toronto (one in each Community Council District), a six (6) week online survey and one-on-one interviews with Members of Council in the preparation of their report.

3. City Manager's Poll on Ward Boundaries

Separate from the work of the Consultants in the development of the *Toronto Ward Boundary Review Supplementary Report*, the City Manager undertook an independent poll of Toronto residents regarding opinions related to changes to the city's ward boundaries. The poll was taken over a one week period, from September 27 to October 3, 2016, and comprised a representative sample of 1,000 Toronto residents age 18 years and older, distributed approximately evenly between the City's four Community Council Districts.

The City Manager's poll found that Toronto residents generally prioritized being able to reach their City Councillor ahead of other factors, while making boundaries align with federal and provincial riding boundaries was disproportionately more important to residents aged 55 years and older. Different demographics were found to exhibit a relative tolerance for a greater level of relative disparity between city wards when given the choice between having approximately the same number of residents in all city wards or allowing some wards to be larger and some to be smaller when drawing ward boundaries (the poll found 30% of residents favoured ward boundaries be changed so that there would be approximately 70,000 residents per ward versus 31% of residents indicating that it would be acceptable for wards to have different numbers of residents.)

In addition, the poll indicated that two out of three residents (71% of those who have voted previously) were of the opinion that changes to their ward boundary will not influence their decision to vote in future municipal elections. This opinion was expressed consistently across all Community Council Districts, with younger residents (18 – 34 years) the only demographic group to indicate that they are more likely to believe changes to ward boundaries would influence whether they vote in future municipal elections.

4. The Consultant's Recommended Ward Boundary Changes

The Consultant generated five (5) ward boundary options that achieved effective representation and elicited input on these options during the Round 2 consultation and engagement process. A further two (2) new ward boundary options were considered by the Consultant in the *TWBR Supplementary Report*, along with refinements to two (2) of the existing ward boundary option models: one presented in the *TWBR Final Report – Recommended Wards* (47 wards), and Option 2 (44 wards) contained in the *TWBR Options Report*.

Option 1 (minimal change with 47 wards and an average population of 61,000) emerged as the preferred option based on input from the public, stakeholders and Members of City Council elicited through the second round of engagement and consultation. The Consultant's report notes that Option 1 achieves effective representation balancing a

range of factors including voter parity, geographic communities of interest, future growth, coherent boundaries, ward history and the capacity of Councillors to represent their constituents. Option 1 was refined twice: once during the Round 2 consultation and engagement process, and again to incorporate the additional concerns and refinements heard from Members of Council and the general public following Option 1's consideration at Executive Committee on May 24, 2016.

Recommended Wards with Refinements (47 ward) – previously Ward Boundary Option 1 – seeks to minimally increase the number of current wards from 44 to 47, retains the current average ward population of 61,000, achieves effective representation in all wards by 2026, and is designed to last for four (4) municipal elections. It achieves a population variance to plus or minus 15% of the average ward population in 44 of the 47 proposed wards with two wards slightly above the population variance and one ward slightly below the population variance. It is anticipated that these three (3) wards will achieve a population variance to plus or minus 15% by 2026. The revisions to this option have managed to keep certain communities of interest together such as Regent Park, the Sentinel community and the Church-Wellesley Village.

This report recommends that the final ward boundary structure maintains the composition of City Council as one (1) Councillor per ward. Section 135 of the *City of Toronto Act, 2006* authorizes City Council to pass a by-law changing its composition. This report requests authority to submit a bill to reflect any change in the number of councillors resulting from a change in the number of wards.

Option 3 (identified in Attachment 5) – Minimal Change, Adjustments to Large Wards Only (46 or 47 Wards): determined as not a viable ward boundary option

At its May 24, 2016 meeting, the Executive Committee asked that the City Manager request the TWBR Consultants undertake a review of Option 1 (47 wards) of the Consultant's *TWBR Final Report*, "with a focus on amendments to address wards with the highest population discrepancies (i.e. Wards 20, 22, 23, 27 and 28), including the possibility of 46 wards, while ensuring the option would achieve effective representation."

After reviewing opportunities to make adjustments only to the largest current Toronto wards as part of the *TWBR Final Report* Option 1 (47 wards) ward boundary structure, the Consultants determined that it was not feasible to implement the required changes that would maintain an average ward population of 61,000, leave the remainder of Toronto ward boundaries unaffected and still comply with the required standard of maintaining "effective representation" in all wards until at least 2026.

In order to achieve the revised 47 ward (or even 46 ward) model identified by the Executive Committee, the Consultants found that an additional four (4) wards would be required to address the size disparity of the current four (4) largest wards. However, population disparities in three (3) other large current wards would need to be addressed and 14 currently smaller population wards would need to be enlarged to achieve the required standards for effective representation. As such, the Consultants deemed this Option not to be viable for further consideration.

5. Key Implementation Activities and Timelines to Adjust Toronto's Ward Boundaries

The following implementation activities will commence when City Council adopts a final ward boundary structure.

A. Ward Boundary By-law (Spring 2017)

Under the *City of Toronto Act, 2006*, City Council has authority to make changes to its ward boundaries through the passage of a by-law. The by-law will need to provide detailed descriptions of the ward boundaries. Once Council selects a ward boundary structure, the required land survey work will begin for inclusion in the bill to adjust Toronto's ward boundaries. It is anticipated that the City Solicitor will bring forward the bill to adjust Toronto's wards in spring 2017.

B. Time for Appeals to the Ontario Municipal Board (April 2017 to January 2018)

The passage of changes to Toronto ward boundaries is governed by the *City of Toronto Act, 2006*, Section 128. In addition to providing that City Council may change the City's ward boundaries, s. 128 provides for an appeal of City Council's decision. Within 45 days after the by-law is passed, a member of the public, agency or a Minister may appeal the Toronto ward boundaries by-law to the Ontario Municipal Board. The Board will subsequently hear the appeal and may make an order affirming, amending or repealing the Toronto ward boundary by-law.

The length of time that an appeal to the Ontario Municipal Board will take cannot be predicted with any certainty; however, the City should expect an appeal would take at least eight (8) to ten (10) months to conclude.

An appeal to Divisional Court is also possible and may take approximately a year to conclude if leave to appeal is granted. Appeals will make it highly unlikely that the ward boundary changes can be implemented in time for the 2018 municipal election as they would have to conclude before the deadline of December 31, 2017.

C. Implementation of Ward Boundary Changes (January 2018 to June 2018)

The ward boundary by-law must be in place by December 31, 2017 in order for the ward boundary changes to take effect for the 2018 election.

After the period for appeals has concluded, implementation of the final ward boundary changes will commence, including the following key activities:

- Develop and implement a communications strategy to inform the public and stakeholders of the new ward boundaries;
- Redraw Toronto's ward maps, as required;
- Create new geographic representation of ward boundaries from the adopted municipal by-law and integrate into the City's geospatial platform;
- Review and redraw all voting subdivisions based on new ward boundaries;
- Notify the Municipal Property Assessment Corporation (MPAC) and the school boards of the ward boundary changes; and

- Provide final voting subdivisions to MPAC (must be done by March 31, 2018).

The revised timeline for the implementation of the ward boundary changes in time for the 2018 municipal election presents a number of challenges for the City. Implementation of any changes to ward boundaries will be highly dependent on the length of time any appeals to the Ontario Municipal Board require and whether the ward boundary changes are further appealed to Divisional Court. Additionally, the City will only have a limited amount of time to implement the ward boundary changes in preparation for the 2018 municipal election once all appeals and challenges have been settled. Any additional delays to the revised key timelines and implementation activities detailed in Attachment 4 will severely compromise the City's ability to implement any changes to ward boundaries in time for the 2018 municipal election.

The City Manager will report further as required with respect to the time line for implementing the new ward boundaries.

6. Governance Implications of Ward Boundary Changes

Any changes to Toronto's ward boundaries will have implications for the number and boundaries of Community Councils. City staff will assess these implications and report back to Executive Committee with any recommended changes once Toronto's ward boundary changes are final.

Additionally, the Consultant included a number of comments and suggestions identified through the ward boundary review engagement process that were outside the scope of this review. These include matters related to governance (for example, structure and operation of City Council, expanded role for Community Councils), staff and resources for Councillor Offices, naming of Toronto wards, and school zone boundaries.

The City Manager's Office will review and consider these comments and suggestions in future related reports.

CONCLUSION

This report responds to the Executive Committee's referral motion asking the City Manager to request the third-party Toronto Ward Boundary Review Consultant provide information on four (4) additional ward boundary options. This report transmits the Consultant's reports *Final Report: Toronto Ward Boundary Review* and *Supplementary Report: Toronto Ward Boundary Review* for City Council's consideration, including a recommended ward structure to ensure effective representation.

In the event there is an appeal to Divisional Court or the Ontario Municipal Board, the City Solicitor will represent the City's interests in the proceedings and will inform City Council of them.

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SIGNATURE

Peter Wallace
City Manager

ATTACHMENTS

- Attachment 1: Final Report: Toronto Ward Boundary Review
- Attachment 2: Final Report Appendices
- Attachment 3: Supplementary Report: Toronto Ward Boundary Review
- Attachment 4: Revised Ward Boundary Implementation Timeline
- Attachment 5: Input on Options for Ward Boundary Changes