

If this information is required in an alternate accessible format, please contact the Accessibility Coordinator at 905-623-3379 ext. 2131.

Report To: General Government Committee
Date of Meeting: November 28, 2016
Report Number: CLD-036-16 **Resolution:** GG-574-16 GG-575-16
File Number: C07.WA **By-law Number:**
Report Subject: **Ward Boundary Review Consideration**

Recommendations:

1. That Report CLD-036-16 be received;
2. That Council authorize a ward boundary review;
3. That the ward boundary review be undertaken as soon as possible such that any recommended ward boundary changes may be considered by Council such that they can be in effect for the 2018 Municipal Elections;
4. That staff be authorized to use the process as outlined in the Report and the Purchasing Manager be authorized to issue a limited invitation Request for Proposal to selected companies (i.e. 2-4 firms) with proven expertise in ward boundary review and to submit proposals based on the scope of work.
5. That the Mayor and Clerk be authorized to execute the agreement; and
6. That all interested parties be advised of Council's decision.

Report Overview

The Municipality of Clarington is currently divided into four wards. The existing ward boundaries were established in 1996. To ensure fair representation, it is recommended that a ward boundary review be undertaken such that any recommended changes may be considered by Council in time to take effect for the 2018 municipal elections.

1. Background

1.1 History of Clarington's Ward Boundaries

When the Town of Newcastle was created in 1974, it consisted of three wards, being the Former Township of Darlington (Ward 1), the Former Town of Bowmanville (Ward 2) and the Former Township of Clarke (Ward 3). At that time, Regional Council consisted of 30 members plus the Chair; the Town had four Regional representatives. The Mayor sat on Regional Council and each of the wards was represented by a Regional Councillor and a Local Councillor. In 1986, effective for the 1988 elections, one member was added to each of Ajax and Whitby, resulting in a 32-member Regional Council, plus the Chair.

In 1996, effective for the 1997 elections, Regional Council was reduced to a 28-member Council and representation of the former Town of Newcastle (now Clarington) was reduced by one member, to two Regional Councillors plus the Mayor. In order to accommodate this reduction, a review of our ward system was undertaken and the Municipality was divided into the current four wards, with two Regional Councillors each representing two wards. Clarington's existing ward boundaries were established by Council on August 12, 1996 through By-law 96-151.

In 1996, in reviewing the ward boundaries, population, as well as communities of interest and geographic features, were taken into consideration. With the wards being divided as they were at that time, it was believed that each one contained a good mix of rural and urban areas. There has never been an equality of population within the wards and it was known at the time, with the growth that was forecasted for the Municipality, that the populations would become more unbalanced over time. As well, it was recognized at the time that Ward 4 would always have a smaller population base than the other three wards. However, this concern was offset by the fact that the land mass covered was much larger than the other wards.

In 2014, through Report CLD-001-14, staff reported to Council concerning Regional Council Representation. That report included 2014 electoral count and landmass statistics by ward and recommended that “given the differences in electors in each ward, and the anticipated future growth in the Municipality, it is advisable to review the ward boundaries prior to the 2018 municipal election.”

1.2 Legislative Authority

Section 222(1) of *The Municipal Act, 2001* (the Act) grants Council the authority “to divide or redivide the municipality into wards or to dissolve the existing wards” by by-law. The Act further requires (as per Section 221(3)) that, within 15 days of passing the by-law, the municipality shall give notice of passing a by-law to modify the ward boundaries. The notice shall advise that the by-law may be appealed to the Ontario Municipal Board (OMB) within 45 days of the date of notice. Following which, the OMB must agree to convene a hearing, reach a decision, and issue an order by December 31, 2017 in order that the electoral system can be in place for January 1, 2018 to be used in the October, 2018 municipal elections. Given this, public meeting(s) would be held to allow public input into the review and redefining of Clarington’s ward boundaries.

The review of municipal electoral arrangements is not subject to a standardized process in Ontario. The timing and purpose of a review, as well as the process to be followed, are entirely at the discretion of each municipal council.

2. Discussion

2.1 Principles of Ward Divisions

When reviewing ward boundaries, generally accepted principles are regularly considered, in consideration of past OMB decisions as well as a Supreme Court of Canada decision, as follows:

- **Representation by Population:** Considering representation by population or every councillor generally representing an equal number of constituents within his or her respective ward. Note: Giving consideration to all of the principles, it is reasonable to establish what would be considered an optimum number per councillor while acknowledging an acceptable variation range.
- **Population and Electoral Trends:** Accommodating for, and balancing, future increases or decreases in population growth/decline to maintain a general equilibrium in the representation by population standard.

- **Means of Communication and Accessibility:** Arranging ward boundaries by primary and secondary road patterns, railway and public transit accesses, postal codes and servicing capabilities to help foster an identity and neighbourhood groupings.
- **Geographic and Topographical Features:** Utilizing geographical and topographical features to provide for ward boundaries and compact and contiguous areas (as included in the previous principle).
- **Community or Diversity of Interests:** Recognizing settlement patterns, traditional neighbourhoods and community groupings (social, historical, economic, religious and political diversities) while at the same time, not fragmenting such communities.
- **Effective Representation:** Considering an overriding principle of effective representation.

The concept of effective representation has become an integral part of the evaluation of electoral systems in Canada, dating from the 1991 Carter decision. The Court was asked to determine whether the variance in the size of voter populations permitted in legislation for certain types of provincial constituencies in Saskatchewan (in urban, rural and northern areas) infringed on the democratic right found in section 3 of the Canadian Charter of Rights and Freedoms.

The majority opinion concluded that the “purpose of the right to vote enshrined in s. 3 of the Charter is not equality of voting power per se but the right to ‘effective representation.’” It went on to state that, since the purpose of a vote is to be represented in government (and not just to be able to cast a ballot on election day), “to insist on voter parity might deprive citizens with distinct interests of an effective voice in the legislative process as well as of effective assistance from their representatives in their ‘ombudsman’ role.” This may mean that, at times, voter parity may “prove undesirable because it has the effect of detracting from the primary goal of effective representation” and deviations from parity “may be justified on the grounds of practical impossibility or the provision of more effective representation.” (Carter decision, page 33)

As written by McLachlin J. of the majority decision:

“...deviations from absolute voter parity may be justified on the grounds of practical impossibility or the provision of more effective representation. Beyond this, dilution of one citizen's vote as compared with another's should not be countenanced. I adhere to the proposition asserted in Dixon, supra, at p. 414, that ‘only those deviations should be admitted which can be justified on the ground that they contribute to better government of the populace as a whole, giving due weight to regional issues within the populace and geographic factors within the territory governed.’”

This begs the question, then, how much of a deviation from the optimum voter parity is acceptable. According to Dr. Robert J. Williams, Ph.D., former Professor Emeritus Department of Political Science University of Waterloo and Public Affairs Consultant specializing in municipal electoral systems, in a report provided to the Region of Durham during their Council composition review,

“The *Carter* decision is not prescription or a blueprint to employ in designing electoral systems that will inevitably deliver “effective representation.” For example, the Court did not invent the idea of a range of 25% above or below the provincial quotient as an inflexible perimeter of variation from voter parity that must guide all electoral system designs, nor was it an invitation to ignore “voter parity” as the first principle. While the 25% variance is used in federal election law, it is usually only employed in exceptional situations. Indeed, many provinces and municipalities work with a narrower range of tolerance in designing electoral districts.”

2.2 Population and Land Mass

The following table provides a comparison of the wards based on today's electoral count and projections.

Ward	Land Mass (km ²)	Population 2011	Population 2016	Population 2018
1	129.19	28,184	30,763	31,037
2	88.37	24,014	27,651	29,563
3	90.27	17,403	17,675	18,193
4	304.39	14,945	16,071	16,399
Total	612.22	84,546	92,160	95,192

Notes:

2011 – based on Census data (excludes net census undercount)

2016 – based on new building permits on record, issued beginning 2012 to end of 2016

2018 – based on list of proposed and draft approved subdivisions compiled by Planning Services Department staff

2.1 Comparison and Variance of Optimal

The following table provides a comparison of the wards variation from the optimal ward population. The analysis is based on the population estimates in the above table.

Ward	2011	2011 Deviation	2016	2016 Deviation	2018	2018 Deviation
	Optimal -- 21,136 (25% of total Pop.)		Optimal -- 23,040 (25% of total Pop.)		Optimal -- 23,798 (25% of total Pop.)	
1	+7,048	+34%	+7,723	+34%	+7,239	+31%
2	+2,878	+14%	+4,611	+20%	+5,765	+25%
3	-3,733	-18%	-5,365	-24%	-5,605	-24%
4	-6,191	-30%	-6,969	-31%	-7,399	-31%

2.2 Recommendation

As depicted in the above chart, Clarington's current ward variances meet or exceed the 25% variance for 3 of the 4 wards (Ward 3 being very close), and essentially all 4 wards are projected to meet or exceed the 25% variance in 2018. As such, it is recommended that a ward boundary review be undertaken for the 2018 Municipal Elections.

2.3 Method of Review

In 1996, the Ward boundary review was undertaken by the Restructuring Committee consisting only of a sub-committee of Council. The electoral system is of considerable importance to incumbent members of Council, potential candidates and residents and

therefore requires a thorough objective, technical analysis of Clarington's population projections as well as due consideration of Clarington's communities, taking into consideration the principles detailed earlier in this Report. According to consultants and feedback from other municipalities, a ward boundary review generally takes between 20-30 weeks (including data collection, analysis, public consultation and Council consideration – excluding time for OMB appeals and hearings).

The scope of this project demands skills, and expertise, and time commitment beyond that of staff. Given the very limited time frame for undertaking this project in order that any ward boundary changes may be in place prior to the 2018 municipal elections, in consultation with the Purchasing Division, it is recommended that a limited Request for Proposal (RFP) process be used. A list of firms, based on those used by area municipalities or with which Clarington has successfully used previously, will be invited to participate. As a requirement of the RFP these companies will be required to meet a number of mandatory pass/fail criteria, including but not limited to successful reference checks, proven financial stability and adherence to the terms and conditions of the RFP document.

In keeping with the Municipality's procurement process, a two envelope system will be used; the technical proposal and the cost of service proposal will be submitted in separate envelopes. To permit a fair and objective evaluation of the proposals, proponents will be evaluated on a number of pre-determined selection criteria and points summary.

3. Financial Considerations

It is estimated that the cost for undertaking a ward boundary review for the Municipality of Clarington would cost approximately \$50,000 which would include data analysis, conducting public consultation, generating maps, and preparation of a final report with recommended ward boundaries. Funding for this review would come from the Election Reserve Account.

4. Concurrence

This report has been reviewed by the Director of Planning Services, Director of Finance/Treasurer, and the Director of Corporate Services who concur with the recommendations.

5. Conclusion

Based on the foregoing, it is recommended that Council authorize a ward boundary review for the Municipality of Clarington; that such review be undertaken by an external consultant through a limited RFP Process, and that the timeline for the review be such that any ward boundary changes be effective for the 2018 Municipal Elections.

6. Strategic Plan Application

The recommendations contained in this report conform to the Strategic Plan.

Submitted by:



C. Anne Greentree,
Municipal Clerk

Reviewed by:



Curry Clifford, MPA, CMO
Interim CAO

Staff Contact: Anne Greentree, Municipal Clerk, 905-623-3379 ext. 2102 or
agreentree@clarington.net

There are no interested parties to be notified of Council's decision.