

Agenda

Governance Working Group

Special 5th Meeting of the Governance Working Group

September 11, 2023, 9:00 AM

Committee Room #5

The City of London is situated on the traditional lands of the Anishinaabek (AUh-nish-in-ah-bek), Haudenosaunee (Ho-den-no-show-nee), Lūnaapéewak (Len-ah-pay-wuk) and Attawandaron (Add-a-won-da-run).

We honour and respect the history, languages and culture of the diverse Indigenous people who call this territory home. The City of London is currently home to many First Nations, Métis and Inuit today.

As representatives of the people of the City of London, we are grateful to have the opportunity to work and live in this territory.

Members

Councillors S. Lewis (Chair), H. McAlister, P. Cuddy, S. Stevenson, J. Pribil, S. Trosow, C. Rahman, A. Hopkins, S. Franke, D.Ferreira, S. Hillier

The City of London is committed to making every effort to provide alternate formats and communication supports for meetings upon request. To make a request specific to this meeting, please contact abush@london.ca.

Pages

1. **Call to Order**
 - 1.1 Disclosures of Pecuniary Interest
2. **Consent Items**
3. **Items for Discussion**
 - 3.1 2023 Ward Boundary and Governance Review Process - Terms of Reference 2
4. **Deferred Matters/Additional Business**
5. **Adjournment**

Report to Governance Working Group

To: Chair and Members
Governance Working Group
From: Michael Schulthess
Subject: 2023 Ward Boundary and Governance Review Process –
Terms of Reference
Date: September 11, 2023

Recommendation

That, on the recommendation of the City Clerk, the following actions be taken with respect to the 2023 Ward Boundary Review Process:

- a) the report dated September 11, 2023, entitled “2023 Ward Boundary Review Process – Terms of Reference”, **BE RECEIVED** for information.
- b) the Civic Administration **BE DIRECTED** to bring forward Terms of Reference (Appendix “A” or Appendix “B”) for adoption at the October 17, 2023 Council meeting, reflective of the preferred option of Council;
- c) the Civic Administration **BE DIRECTED** to undertake a competitive procurement process to retain an independent third-party consultant to conduct to initiate the preferred option of Municipal Council and under the adopted Terms of Reference for the City of London.

Executive Summary

The *Municipal Act, 2001* [the “Act”] provides authority for a municipality to pass a by-law dividing or re-dividing the municipality into wards or dissolving the existing wards. In keeping with CPOL.-72(b)-160 Review of Ward Boundaries Policy, this report provides the Municipal Council with information regarding a governance review and/or ward boundary review process for the City of London.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

Governance Working Group – August 28, 2023 – 2021 Ward Population Update
Corporate Services Committee – May 31, 2021 – Review of Ward Boundaries Update
Corporate Services Committee – March 23, 2021 – Review of Ward Boundaries

1.2 Council Direction on Ward Boundary and Governance Review Process

At its meeting on July 25, 2023, Municipal Council resolved:

- d) the following actions be taken with respect to a Ward Boundary Review:
 - i) the Memo dated June 26, 2023 and entitled “Governance Working Group”, **BE RECEIVED**;
 - ii) the Civic Administration **BE DIRECTED** to bring forward to the next meeting of the Governance Working Group the following:
 - A) population projections through to 2026, including post-secondary student enumeration to the fullest extent possible;
 - B) a draft Terms of Reference for consideration to commence an independent third-party consultant to undertake a comprehensive ward boundary review for the City of London, with a report back prior to the end of 2024;

C) a potential addition to the above noted Terms of Reference related to a governance review to accompany the ward boundary review as may be appropriate;

Further, at its meeting on August 28, 2023, Governance Working Group passed the following motion:

That the matter of a Ward Boundary Review BE REFERRED back to the Civic Administration in order to report back to a special meeting of the Governance Working Group, to be scheduled the week of September 11, with respect to a revised Terms of Reference to support the various options, as outlined in the report dated August 28, 2023, including consideration of future growth with the intent that any ward boundary changes will be relevant for the next three elections, inclusive of student population data and additional data points that may be applicable, as well as additional detail related to deliverables.

2.0 Key Issues and Considerations

2.1 Public Consultation

Public consultation periods will form a critical part of the review. Members of the public will have the opportunity to participate in the review and provide their feedback on proposed changes. Emphasis will be placed on engagement with residents, businesses, and other community partners, while educating on the criteria considered in the review. An engagement strategy will be developed by the consultant in consultation with Strategic Communications and will include, but is not limited to:

- open houses,
- community engagement opportunities,
- multimedia and media outreach, and
- online engagement, involving social media and use of the City's Get Involved webpage.

2.2 Post-secondary Student Population

In July 2023 Civic Administration proceeded with contacting post-secondary institutions in London to enquire about the total enrolment, requirements about updating addresses and postal codes, the number of students living in on-campus residence and any information regarding the approximate number of students living in off-campus housing. Both institutions expressed difficulty in estimating the location of off-campus students in the City of London.

In the previous staff report, students living in residence at Western University and Fanshawe College for 2021-22 were included in current population and ward variance estimates. The Western University number (7,332) comes from the Institutional Planning and Budgeting – Western facts 2021-22 website. The Fanshawe College number is provided by their main web site and includes 1,220 units in three traditional on-campus residences and an additional 396 units in an off-campus townhouse complex.

Students are not captured in the Census Data unless their permanent residence is listed as London, and they are not captured through Municipal Property Assessment Corporation data unless their name has been provided through enumeration forms or other documentation.

Prior to 2013, Ontario municipalities established ward boundaries without explicitly factoring post-secondary students, however, the Ontario Municipal Board (now Ontario Land Tribunal ["OLT"]) ruled in 2013 that the principle of effective representation requires that post-secondary students be counted in the determination of ward boundaries.¹

¹ O.M.B. Decision/Order 130053 (November 6, 2013) (City of Kingston). <https://www.omb.gov.on.ca/e-decisions/mm130053-Nov-06-2013.pdf>

Additional criteria have been incorporated in the attached Terms of Reference (both Appendix “A” and Appendix “B”) to require a consultant to initiate, and take into consideration the results of, a comprehensive review of post-secondary students in the City of London.

2.3 Terms of Reference

Large municipalities that have commenced ward boundary reviews have engaged consultants to lead the process. The consultant would conduct research, develop and execute a work plan that includes public consultation, in addition to undertaking a ward boundary review that will withstand legal scrutiny and possible appeals to the OLT. Findings and recommendations would be reported to the Municipal Council for approval. In addition, the consultant would be an expert witness, if necessary, in the event of any appeals to the OLT.

Two draft Terms of Reference for a consultant to conduct a governance and/or ward boundary review have been included as Appendix “A” and Appendix “B” to this report. Within the Terms of Reference, key criteria and guiding principles have been established.

2.4 Timing

The timing for new ward boundaries to come into force depends on when Municipal Council may approve a ward boundary by-law. Subsection 222(8) of the Act provides that a by-law to establish ward boundaries comes into force for the next regular election if the by-law is passed before January 1 of a regular election year and no notices of appeal are filed, if notices of appeal are filed and all withdrawn before January 1 of the year of the election, or if notices of appeal are filed and the OLT issues an order to affirm or amend the by-law before January 1 of the election year.

Based on the reviews conducted previously in London and information provided by other municipalities who have undergone similar reviews, it is estimated that engaging a consultant to assist with the review would take approximately twelve to eighteen months to complete.

The entire review process, including receipt of the decision of the OLT regarding any appeals, must be completed no later than January 1, 2026 in order for the revised ward boundaries to be in place for the 2026 City of London Municipal Election. For reference, several parties appealed the outcome of the City of Toronto’s ward boundary review. Two parties also appealed the City of Hamilton’s review decision. The City of Ottawa also received an appeal for their 2021 Ward Boundary review decision.

Impacts to Timelines:

- If Municipal Council wishes to hire an external consultant for this work, the draft timelines in the Terms of Reference would accommodate the Request for Proposal (RFP) process. The consultant may further suggest adjustments to the timeline based on their experience, and if they are involved in reviews in other municipalities.
- Any appeal to the by-law(s) may impact the timelines for work that staff must complete. Completing the review early in the term and passing a by-law in 2024 will ensure sufficient time for resolution of any submitted appeals.

2.5 Next Steps

The options for Municipal Council’s consideration include:

Option 1 – Ward Boundary Review

Conduct review for ward boundary realignment. Municipal Council may direct Civic Administration to conduct a ward boundary review with Council composition remaining unchanged with fourteen (14) wards. The review would focus exclusively on ward boundary realignment. It is recommended that Municipal Council adopt the Ward Boundary Review Terms of Reference (Appendix “A”) to guide the process if this option is preferred.

For Option 1, Civic Administration recommends Municipal Council provide direction for Civic Administration to engage an independent third-party consultant for a comprehensive ward boundary review.

Option 2 – Governance and Ward Boundary Review

Conduct both a governance and ward boundary review. Municipal Council may direct Civic Administration to conduct a review of Council composition and ward boundary realignment. Council may decide to change its composition (or explore options regarding a composition change) which will establish the preconditions for Council's governance structure and serve as the basis to conduct a ward boundary review. It is recommended that Municipal Council adopt the Ward Boundary and Governance Review Terms of Reference (Appendix "B") to guide the process if this option is preferred.

For Option 2, Civic Administration recommends Municipal Council provide direction for Civic Administration to engage an independent third-party consultant for both the governance and comprehensive ward boundary review.

Option 3 – Status Quo

No review. Municipal Council may decide not to proceed with a ward boundary or governance review at this time.

When considering the options, note that section 222 of the Act provides authority for a municipality to pass a by-law dividing or re-dividing the municipality into wards, or a by-law dissolving the existing wards. The Act also sets out the right to appeal.

Subsection 223(1) of the Act, electors in a municipality may present a petition asking Council to pass a by-law to divide, re-divide or dissolve existing wards. The petition must be signed by 1% of the electors in the municipality, or 500 electors, whichever is less.

If Council does not pass a by-law within 90 days of receiving the petition, any of the electors who signed the petition may apply to the OLT to have the wards divided, re-divided or dissolved. Section 223 of the Act provides that electors in the City of London may also petition Municipal Council to create or revise an existing ward structure, and a failure to act upon such a petition may be appealed to the OLT. Any Municipal Council decision with respect to ward boundaries may be subject to appeal through the OLT.

Conclusion

Should Municipal Council provide Civic Administration with a preferred option that directs a review, based on practices observed in other municipalities, an independent third-party consultant can be engaged for the review of ward boundaries and/or governance. Civic Administration will report back to Municipal Council on the results of the procurement process and next steps. If Municipal Council selects option three, no further action is required.

Prepared by: Jeannie Raycroft, Manager, Elections, Strategic Integration and Policy
Submitted by: Sarah Corman, Deputy City Clerk
Recommended by: Michael Schulthess, City Clerk

Terms of Reference for the City of London Ward Boundary Review

Objective

The City of London will undertake a ward boundary review including broad engagement and consultation with members of the public, communities, key partners, to arrive at an effective and equitable system of representation across all wards, and present to Municipal Council options to be in place for the 2026 Municipal Election. Council composition will remain with fourteen (14) ward Councillors and Mayor elected at large.

The review shall consider the following:

- History of previous ward boundary changes in the City of London;
- Legal proceedings and outcomes of relevant Ontario Land Tribunal (OLT) hearings and Supreme Court case decisions;
- The City of London’s projected growth and population shifts for at least three terms of Council, being 2022-2026, 2026-2030 and 2030-2034;
- Future growth with the intent that any ward boundary changes will be relevant for the next three elections;
- Post-secondary population and projections consisting of enrollment trends, geographic location trends for students, international student growth projection, and a review of comparator post-secondary institutions in Ontario; and
- Public participation and feedback.

Consultant Responsibilities

- Develop a ward boundary review process, work plan, engagement and consultation strategy for the City of London that includes but is not limited to: online and in person information sessions, social media, surveys, and dedicated information for the City’s Get Involved webpage;
- Undertake required electoral, public policy and other research (such as comparable cities) to inform the ward boundary review process;
- Implement a broad engagement and consultation strategy with London residents, communities, key partners and Members of Council to elicit input on London’s current ward boundaries and input on ward boundary options;
- Evaluate the strengths and weaknesses of the present ward system on the basis of the guiding principles identified in the Review of Ward Boundaries Council Policy;
- Undertake a ward boundary review for the City of London that will withstand legal scrutiny and possible appeals to the Ontario Land Tribunal (OLT);
- Prepare reports that will set out alternative ward boundaries to ensure effective and equitable electoral arrangements, based on the principles identified;
- Identify plausible ward boundary options that take into account the results of the consultation process;
- Present ward boundary options and a recommended option for Municipal Council’s consideration in 2024.

Project Deliverables

The consultant will be responsible to undertake a ward boundary review for the City of London within the following parameters:

- Applies the principle of “effective representation” as outlined by the Supreme Court of Canada and applied by the courts and the OLT in developing ward boundary options;
- Considers and reflects the principles of geography, community history, minority representation, communities of interest, physical and geographical boundaries when generating ward boundary options;
- Adheres to requirements set out in relevant OLT and court decisions about

- undertaking municipal ward boundary reviews;
- Builds on lessons learned through other ward boundary reviews and leading electoral and public policy research and advice;
- Builds from the experience gained through the City of London’s previous ward boundary changes and associated OLT (previously OMB) hearings;
- Engage the community with questions on the existing ward structure and guiding principles including 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 proposed options; and
- Works within any additional parameters established by Municipal Council and/or the City Clerk’s Office.

Key Project Timelines and Deliverables

Timeframe	Activities
August 2023 – January 2024	<ul style="list-style-type: none"> • Procurement issued to hire a consultant • Procurement evaluation and contract negotiation • Procurement Report to Council
February – September 2024	<ul style="list-style-type: none"> • Public Engagement Rounds 1&2 • Formal public consultation period, including: <ul style="list-style-type: none"> • Open houses • Community engagement opportunities • Online engagement, involving social media and use of the City’s Get Involved webpage
October – November 2024	<ul style="list-style-type: none"> • Final Report to Council with recommendations • Enacting by-law
December 2024	45-day appeal period ends
January 2025	Notices of appeal to be forwarded to OLT by the City (if required)
July 2025 – November 2025	Expected OLT decision (if required)
December 31, 2025	Deadline to notify the Assessment Corporation (MPAC) and Chief Electoral Officer (Elections Ontario) of enacting by-law

Appendix “B” – Option 2

Terms of Reference for the City of London Ward Boundary and Governance Review

Objective

The City of London will undertake a comprehensive council composition and ward boundary review, including broad engagement and consultation with members of the public, communities, key partners, to arrive at an effective and equitable system of representation across all wards, and present to Municipal Council options to be in place for the 2026 Municipal Election.

The review shall consider the following:

- History of previous ward boundary and governance changes in the City of London;
- Legal proceedings and outcomes of relevant Ontario Land Tribunal (OLT) hearings and Supreme Court case decisions;
- The City of London’s projected growth and population shifts for at least three terms of Council, being 2022-2026, 2026-2030 and 2030-2034;
- Future growth with the intent that any ward boundary and governance changes will be relevant for the next three elections;
- Post-secondary population and projections consisting of enrollment trends, geographic location trends for students, international student growth projection, and a review of comparator post-secondary institutions in Ontario; and
- Public participation and feedback.

Consultant Responsibilities

- Develops a ward boundary and governance review process, work plan, engagement and consultation strategy for the City of London that includes but is not limited to: online and in person information sessions, social media, surveys, and dedicated information for the City’s Get Involved webpage;
- Undertake required electoral, public policy and other research (such as comparable cities) to inform the ward boundary and governance review process;
- Implement a broad engagement and consultation strategy with London residents, communities, key partners and Members of Council to elicit input on London’s current ward boundaries and governance structure as well as input on ward boundary and governance options;
- Evaluate the strengths and weaknesses of the present ward system on the basis of the guiding principles identified in the Review of Ward Boundaries Council Policy;
- Undertake a ward boundary review for the City of London that will withstand legal scrutiny and possible appeals to the Ontario Land Tribunal (OLT);
- Prepare reports that will set out alternative ward boundaries and governance structure to ensure effective and equitable electoral arrangements, based on the principles identified;
- Identify plausible ward boundary options and potential council composition that take into account the results of the consultation process; and
- Present ward boundary and council composition options as well as a recommended option for Municipal Council’s consideration in 2024.

Project Deliverables

The consultant will be responsible to undertake a ward boundary review for the City of London within the following parameters:

- Applies the principle of “effective representation” as outlined by the Supreme Court of Canada and applied by the courts and the OLT in developing ward boundary options;

- Considers and reflects the principles of geography, community history, minority representation, communities of interest, physical and geographical boundaries when generating ward boundary and governance options;
- Adheres to requirements set out in relevant OLT and court decisions about undertaking municipal ward boundary and composition reviews;
- Builds on lessons learned through other reviews and leading electoral and public policy research and advice;
- Builds from the experience gained through the City of London’s previous ward boundary and governance changes and associated OLT (previously OMB) hearings;
- Engage the community with questions on the existing ward structure and guiding principles including at least two rounds of broad and comprehensive public consultation – the first to provide information to support informed engagement and solicit feedback on existing structure and boundaries, and the second to provide information and solicit feedback on proposed options; and
- Works within any additional parameters established by Municipal Council and/or the City Clerk’s Office.

Key Project Timelines and Deliverables

Timeframe	Activities
August 2023 – January 2024	<ul style="list-style-type: none"> • Procurement issued to hire a consultant • Procurement evaluation and contract negotiation • Procurement Report to Council
February – September 2024	<ul style="list-style-type: none"> • Public Engagement Rounds 1&2 • Formal public consultation period, including: <ul style="list-style-type: none"> • Open houses • Community engagement opportunities • Online engagement, involving social media and use of the City’s Get Involved webpage
October – November 2024	<ul style="list-style-type: none"> • Final Report to Council with recommendations • Enacting by-law
December 2024	45-day appeal period ends
January 2025	Notices of appeal to be forwarded to OLT by the City (if required)
July 2025 – November 2025	Expected OLT decision (if required)
December 31, 2025	Deadline to notify the Assessment Corporation (MPAC) and Chief Electoral Officer (Elections Ontario) of enacting by-law