

Report to Governance Working Group

To: Chair and Members
Governance Working Group
From: Michael Schulthess
Subject: 2021 Ward Population Update
Date: August 28, 2023

Recommendation

That, on the recommendation of the City Clerk, the following actions be taken with respect to the 2021 Ward Population Update:

- a) that the Terms of Reference for the City of London Ward Boundary Review, attached as Appendix 'A' **BE ADOPTED**;
- b) that Civic Administration **BE DIRECTED** to undertake a competitive procurement process to retain an independent third-party consultant to conduct a comprehensive ward boundary review for the City of London, as described in this report and consistent with the Terms of Reference attached as Appendix 'A'; and
- c) the report dated August 28, 2023, entitled "2021 Ward Population Update", **BE RECEIVED** for information.

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 ward population in the City of London.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

Corporate Services Committee – May 31, 2021 – Review of Ward Boundaries Update

Corporate Services Committee – March 23, 2021 – Review of Ward Boundaries

1.2 Legislative Context

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. Specifically, Section 222 states:

"Establishment of wards

222 (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to divide or redivide the municipality into wards or to dissolve the existing wards. 2006, c. 32, Sched. A, s. 96 (1).

Conflict

(2) In the event of a conflict between a by-law described in subsection (1) and any provision of this Act, other than this section or section 223, any provision of any other Act or a regulation made under any other Act, the by-law prevails. 2006, c. 32, Sched. A, s. 96 (1).

Notice

(3) Within 15 days after a by-law described in subsection (1) is passed, the municipality shall give notice of the passing of the by-law to the public specifying the last date for filing a notice of appeal under subsection (4). 2006, c. 32, Sched. A, s. 96 (1).

Appeal

(4) Within 45 days after a by-law described in subsection (1) is passed, the Minister or any other person or agency may appeal to the Ontario Land Tribunal by filing a notice of appeal with the municipality setting out the objections to the by-law and the reasons in support of the objections. 2006, c. 32, Sched. A, s. 96 (1); 2017, c. 23, Sched. 5, s. 49 (1); 2021, c. 4, Sched. 6, s. 64 (1).

Notices forwarded to the Board

(5) Within 15 days after the last day for filing a notice of appeal under subsection (4), the municipality shall forward any notices of appeal to the Tribunal. 2001, c. 25, s. 222 (5); 2017, c. 23, Sched. 5, s. 49 (2).

Other Material

(6) The municipality shall provide any other information or material that the Tribunal requires in connection with the appeal. 2001, c. 25, s. 222 (6); 2017, c. 23, Sched. 5, s. 49 (3).

Tribunal Decision

(7) The Tribunal shall hear the appeal and may, despite any Act, make an order affirming, amending or repealing the by-law. 2001, c. 25, s. 222 (7); 2017, c. 23, Sched. 5, s. 49 (4).”

There is no requirement in the Act for a municipality to conduct a review of its ward boundaries within a prescribed time or frequency. The Act also does not provide specific criteria or process for establishing and reviewing ward boundaries. However, the principle of “effective representation” is to be applied when reviewing ward boundaries. This principle was set by the Supreme Court of Canada in the case of [Reference Re Provincial Electoral Boundaries \(Sask.\), \[1991\] 2 S.C.R. 158](#) commonly referred to as the “*Carter Case*”. The *Carter Case* determined effective representation considers both voter parity and communities of interest— “factors like geography, community history, community interests and minority representation” in determining and evaluating ward boundaries.

In addition, 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 Ontario Land Tribunal [“OLT”]. Any Municipal Council decision with respect to ward boundaries may be subject to appeal through the OLT.

1.3 CPOL.-72(b)-160 Review of Ward Boundaries Policy

On May 9, 2011, the Municipal Council adopted the Review of Ward Boundaries Policy¹ setting out the requirements for the regular review of ward boundaries to ensure that they remain relevant. The policy is consistent with the *Carter Case* and with best practices across Ontario. On June 11, 2019, the Municipal Council adopted an update to the policy which is still in effect:

The City Clerk shall, as required, undertake a review of the municipal ward boundaries, in sufficient time to allow the implementation of any appropriate ward boundary changes for the next municipal election, in accordance with applicable legislative requirements. The review shall take into consideration balancing population distribution among the wards, both now and in the future based on projections; respecting established neighbourhoods and communities within the municipality; geographical features defining natural boundaries within the municipality; and infrastructure boundaries such as roads, bridges, rail lines and transit routes. Upon conclusion of the City Clerk’s review, the City Clerk shall

recommend if and how the wards should be re-divided for the upcoming election, based upon their findings and in keeping with the public interest.¹

1.4 Ward Boundary and Governance History

2003 Municipal Election

- Mayor – one (1) elected at large
- Board of Control – four (4) elected at large
- Wards – seven (7)
- Councillors – fourteen (14) with two (2) Councillors per ward
- Council – 19 members total

2006 Municipal Election

- Mayor – one (1) elected at large
- Board of Control – four (4) elected at large
- Wards – seven (7)
- Councillors – fourteen (14) with one (1) Councillor per ward
- Council – 19 members total

2010 Municipal Election

- Mayor – one (1) elected at large
- Wards – fourteen (14)
- Councillors – fourteen (14) with one (1) Councillor per ward
- Council – 15 members total

2018 Municipal Election

- Mayor – one (1) elected at large
- Wards – fourteen (14)
- Councillors – fourteen (14) with one (1) Councillor per ward
- Council – 15 members total

2022 Municipal Election

- Mayor – one (1) elected at large
- Wards – fourteen (14)
- Councillors – fourteen (14) with one (1) Councillor per ward
- Council – 15 members total

The last significant change to the City of London ward boundaries and governance model took place prior to the 2010 Municipal Election with the elimination of the Board of Control, resulting in minor adjustments to boundaries and the current governance model. Since that time, prior to each municipal election, the Civic Administration has reviewed the ward boundaries using available population data and the guiding principles in the Review of Ward Boundaries Policy.

On May 30, 2017, the Municipal Council passed a by-law to re-divide the wards in the City of London, adjusting the boundaries of Ward 5, Ward 6, Ward 7, Ward 8, Ward 9, Ward 10, Ward 12 and Ward 13. The revised ward boundaries came into force and effect on December 1, 2018, following the 2018 Municipal Election. These ward boundaries remain current today.

2.0 Key Issues and Considerations

2.1 Current Ward Boundaries

The typical indicator of an effective ward-based electoral system is the extent to which all the individual wards approach an “optimal” size, where the “optimal” size is the average population for all wards.

¹ The criteria within the policy is derived from the OMB Decision/Order 3072 (November 22, 2005) (City of London), specifically Attachment 1 Schedule “D”. The policy is the result of a recommendation from Governance Task Force, December 1, 2008.

In accordance with applicable case law² and past tribunal decisions, population variations of up to 25% above or below the optimal (average) ward size for the City are considered generally acceptable (i.e. no ward should have population greater than 25% above or below the average for all wards). This range is consistent with legislated federal redistribution provisions.

Table 1: Population Data by Ward, 2021 Census Update

Ward	2021 Population	Population Variance from the Average of all Wards
1	27,469	-12.01%
2	26,465	-15.23%
3	29,891	- 4.26%
4	32,370	3.68%
5	35,387	13.35%
6	23,738	-23.97%
7	43,351	38.86%
8	29,757	-4.69%
9	33,861	8.46%
10	31,682	1.48%
11	30,248	-3.11%
12	33,472	7.21%
13	31,071	-0.48%
14	28,318	-9.30%
Total	437,080	
Average	31,220	

[Source: Population data received from Planning and Economic Development June 2023. Population figures for do not include any additional enumeration of post-secondary students.]

2.2 Growth Projections

Table 2 shows growth projections per ward to 2035. This information has been prepared by Planning and Economic Development. The city-wide forecasts are from the Watson & Associates study "[Population, Housing and Employment Growth Projection Study, 2021-2051](#)" endorsed by Council on December 13, 2022 for use as the City of London corporate growth forecast. These are the City's latest forecasts and are rooted in the 2021 census.

Table 2: 2021-2035 Growth Projection per Ward

Ward	2021	2025	2030	2035
1	27,469	28,799	29,265	29,606
2	26,465	27,203	27,193	27,294
3	29,891	32,958	37,905	44,073
4	32,370	33,444	34,326	34,972
5	35,387	38,835	42,714	47,143
6	23,738	24,703	25,881	27,559
7	43,351	48,643	54,194	56,517
8	29,757	30,887	31,361	31,912
9	33,861	40,243	48,347	55,084
10	31,682	32,940	34,008	34,736
11	30,248	31,960	32,604	32,892
12	33,472	35,846	38,626	42,171
13	31,071	35,195	40,357	44,795

² [Dixon v. British Columbia \(Attorney General\)](#), 1989 CanLII 248 (BC SC), at p. 28-29.

14	28,318	31,252	35,528	39,054
Total	437,080	472,908	512,309	547,808

[Source: Population data received from Planning and Economic Development July 2023. Population figures for do not include any additional enumeration of post-secondary students.]

2.3 Post-secondary Student Population

Prior to 2013, Ontario municipalities established ward boundaries without explicitly factoring post-secondary students, however, the Ontario Municipal Board (now Ontario Land Tribunal) ruled in 2013 that the principle of effective representation requires that post-secondary students be counted in the determination of ward boundaries.³

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. As a result, 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.

Western University and affiliate University Colleges (Brescia, Huron, and Kings) provided Civic Administration with the current number of students in residence and the current total enrolment. Western University and the affiliated University Colleges do not require students to update their postal codes (or addresses) if they live off-campus. Western University's Off-Campus Housing Service did state that approximately 28,000 in 2021 were accommodated off-campus in private sector dwellings (or addresses). How these students are distributed across each ward, or even within the City of London, is currently unknown.

Fanshawe College also provided Civic Administration with the current total enrolment and the current number of students in residence. The college was unable to provide estimates regarding the number of Fanshawe students who require off-campus housing. Fanshawe does not require students to update their postal codes or addresses therefore how these students are distributed across each ward, or even within the City of London, is unknown. Both Western University and Fanshawe College have expressed difficulty in enumerating off-campus students. This has been difficult in previous enrolment years but has been exacerbated with the move to virtual learning and online services during the pandemic.

Without accurate information from post-secondary institutions in London, Civic Administration is unable to provide an estimate of off-campus student population and the distribution of these students between wards. In conclusion, only students living in residence have been included in population figures included in this report.

The City of Guelph and the City of Ottawa have recently completed ward boundary reviews, with specific attention to community consultation and non-permanent post-secondary student populations. A consultant team (Watson & Associates) was retained by both municipalities to assist with the review of ward boundaries, which included providing estimates for Census undercount and non-permanent post-secondary student population.⁴ If Council wishes to obtain an accurate representation of the distribution and population of non-permanent post-secondary students in London prior to proceeding with a ward boundary review, Civic Administration recommends retaining a consultant to assist with population estimates, based on the 2021 Census, depending

³ 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>

⁴ City of Guelph Council Composition and Ward Boundary Review (Phase 2 Report), June 2021 <https://pub-guelph.escribemeetings.com/filestream.ashx?DocumentId=15856>; City of Ottawa, Ottawa Ward Boundary Review 2020 – Implementation Report <https://pub-ottawa.escribemeetings.com/filestream.ashx?documentid=80350>

on the availability of data. Based on municipalities of similar size, Civic Administration estimates this process would take approximately twelve to eighteen months to complete.

The inclusion of post-secondary students in the total population counts is an estimate only. For 2021 population and ward variance estimates in Table 3 of this report, only students living in residence at Western University and Fanshawe College for 2021-22 have been included. A total of 1,616 students living in residence have been added to Ward 3 and a total of 7,332 students living in residence have been added to Ward 6.⁵

Table 3: 2021 Population Data by Ward, adjusted for post-secondary students living in residence

Ward	2021 Population	Population Variance from the Average of all Wards
1	27,469	-13.78%
2	26,465	-16.93%
3	31,507	-1.10%
4	32,370	1.60%
5	35,387	11.07%
6	31,070	-2.48%
7	43,351	36.07%
8	29,757	-6.60%
9	33,861	6.28%
10	31,682	-0.56%
11	30,248	-5.06%
12	33,472	5.06%
13	31,071	-2.47%
14	28,318	-11.11%
Total	446,028	
Average	31,859	

[Source: Population data received from Planning and Economic Development June 2023. Population figures include students living in residence for Ward 3 and Ward 6 only.]

2.4 Governance Review

It is important to distinguish a governance review from a ward boundary review. While both processes can include changes to existing ward boundaries, a ward boundary review focuses generally on population statistics within the existing ward structure and, if required, adjusts the physical boundaries of the ward accordingly to achieve balanced populations across all existing wards. Governance reviews are undertaken as a means of evaluating existing structural elements of municipal governments. The purpose of a governance review is to consider whether the current governance structure in place allows the council of a municipality to effectively and equally represent constituents.

Governance reviews require a significant amount of time and resources to complete as they impact the structural elements of the municipality's government, including but not limited to: the size of the municipal council; representation; compensation; and how Councillors may be elected (ward based, at large, or both).

Currently, no corporate policy, best practice, or threshold exists at the City of London to initiate a review of the City's municipal government structure. While the Act includes provisions for the minimum size of a council (five members) and how the members of

⁵ 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 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.

Council are elected to office, provincial legislation does not specify a process concerning the modification of municipal council structure.

The City of London's most recent governance review occurred over 2005-2006. Prior to the 2006 Municipal Election, the City of London was governed by a mayor elected at large, a four-person Board of Control elected at large, and 7 wards represented by two councillors per ward to form a 19-member Council.

Since the 2006 Municipal Election, the City of London has been comprised of fourteen (14) wards with one councillor per ward and a mayor elected-at-large.

2.5 Engaging a Consultant

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.

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.

A draft Terms of Reference for a consultant to conduct a ward boundary review has been included as Appendix "A" to this report. Within the Terms of Reference, key criteria and guiding principles have been established, which include:

- Effective representation, the primary goal of a review;
- Representation by population;
- Population trends and growth;
- Physical and geographical boundaries; and
- Protection of established neighbourhoods and communities of interest.

2.6 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 Ontario Land Tribunal (OLT) issues an order to affirm or amend the by-law before January 1 of the election year. Despite subsection 222(8), where a by-law comes into force on the day the new council of a municipality is organized following a regular election, that election shall be conducted as if the by-law was already in force.

Any decision by Council to change ward boundaries is subject to public notice and possible appeal to the OLT. 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.

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 ward boundary 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.

- Municipal Council may decide to delay the start of the ward boundary review until later in 2023 when more information regarding the review may become available. Starting the ward boundary review in December of 2023, would shift the project timelines such that the by-law would be passed in the summer of 2025, still providing adequate time for any appeals to the OLT to be resolved.

2.7 Next Steps

The options for Municipal Council's consideration include:

Option 1

Conduct review for ward boundary realignment. Municipal Council may direct Civic Administration to conduct a ward boundary review with Council composition remaining unchanged. 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

Conduct both a governance and ward boundary review. Municipal Council may direct Civic Administration to conduct a review of Council composition alongside a ward boundary realignment. An amendment to the Ward Boundary Review Terms of Reference (Appendix "A") would be required.

For Option 1, 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

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

Noting that under 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 Ontario Land Tribunal (OLT) to have the wards divided, re-divided or dissolved.

3.0 Financial Impact/Considerations

Should Municipal Council determine to proceed with a ward boundary review, based on costs reported by municipalities of similar size, it is estimated that the consultant will cost approximately \$250,000, depending on the complexity of the review. The City of Guelph and City of Ottawa completed a comprehensive ward boundary review in 2021, with costs estimated at \$225,790 and \$320,000, respectively.

It is anticipated that this cost would include public consultation. All costs associated with a ward boundary review would be drawn from the Election Reserve.

There are no financial implications should the Municipal Council determine that no changes to the existing ward boundaries are necessary.

Conclusion

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Submitted by: Sarah Corman, Deputy City Clerk

Recommended by: Michael Schulthess, City Clerk