



Report to: General Committee

Date Report Authored: May 28, 2012

SUBJECT: 091-S-12 Ward Boundary Review Process

PREPARED BY: Stephen Huycke, Public Services & Records Coordinator (x4290)
Rosemarie Patano, Senior Buyer (x2990)

RECOMMENDATION:

- 1) THAT the report entitled “091-S-12 Ward Boundary Review Process” be received; and,
- 2) THAT the “2012 Markham Ward Boundary Review – Terms of Reference” be approved; and,
- 3) THAT the tendering process be waived in accordance with Purchasing By-Law 2004-341 Part II, Section 7, Item 1(h), Non Competitive Procurement, and staff be authorized to award a contract to Dr. Robert Williams for consulting services for the 2012 Ward Boundary Review Process in the amount of \$31,816.69 (including disbursements and HST); and,
- 4) THAT the Ward Boundary Review in the amount of \$31,816.69 be funded from account #310-101-5699-12089 “Establishment of New Ward Boundaries”; and,
- 5) THAT Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

This report is prepared to provide Council with an overview of the process of reviewing Markham’s current eight (8) ward boundaries. This report seeks approval of the Terms of Reference for a comprehensive ward boundary review in advance of the 2014 Municipal Election. This report also seeks approval to retain Dr. Robert Williams, Professor Emeritus of Political Science, University of Waterloo, as a sole-source preferred supplier (as provided for under Purchasing By-Law 2004-341 Part II, Section 7, Item 1(h), Non Competitive Procurement¹), to conduct the ward boundary review in accordance with the proposed Terms of Reference. This project to be funded in the amount of \$40,700 (inclusive of HST) from the approved 2012 capital project (Project 12089 “Establishment of New Ward Boundaries”).

BACKGROUND:

Markham’s current system of eight (8) Local Ward Councilors was adopted in 1997. The ward boundaries were realigned in 2005. During the 2005 review, Council directed that the boundaries be reviewed prior to the 2014 Municipal Election.

Since 2005, growth throughout Markham has created inequalities in terms of the population in each of the wards. The 2005 review estimated that Markham’s 2012 population would be two hundred and seventy-five thousand (275,000). According to the 2011 Census, the current population of Markham is almost three hundred and two thousand (302,000), or approximately 25,000 more than what was estimated in 2005.

The current eight (8) local wards have the following estimated population counts, with the variances shown (*Note: as the ward with the smallest population, Ward 2 has been used as the baseline for calculating the variance*):

Population by Ward

Ward	Population	% of Total Pop.	Variance vs. Ward 2	% Difference from Ward 2
1	28,298	9.43%	1,690	6.35 %
2	26,608	8.87%	0	0.00 %
3	35,296	11.77%	8,688	32.65 %
4	49,410	16.47%	22,802	85.70 %
5	50,273	16.76%	23,665	88.94 %
6	41,444	13.81%	14,836	55.76 %
7	38,054	12.68%	11,446	43.02 %
8	30,704	10.24%	4,096	15.39 %
Total	300,089	100%		

In addition to the population variances noted in the above Table, there is also a significant variance in the number of eligible voters in each of the eight wards (*Note: as the ward with the smallest number of eligible voters, Ward 1 has been used as the baseline for calculating the variance*). For instance, in the 2010 Municipal Election, the number of eligible voters in Ward 1 was 16,582 while the number of eligible voters in Ward 4 was 28,595, or a difference of almost 73%.

Eligible Voters by Ward (2010 Municipal Election)

Ward	2010 Voters	% of total Voters	Variance vs. Ward 1	% difference from Ward 1
1	16,582	8.89%	0	0.00 %
2	17,493	9.38%	911	5.50 %
3	22,121	11.86%	5,539	33.41 %
4	28,595	15.33%	12,013	72.45 %
5	27,669	14.83%	11,087	66.87 %
6	23,589	12.65%	7,007	42.26 %
7	26,426	14.17%	9,844	59.37 %
8	24,092	12.92%	7,510	45.29 %
Total	186,567	100%		

The above-noted variances in population and in eligible voters indicate that a re-align of Markham's ward boundaries is warranted prior to the 2014 Municipal Election. In Canada, it is generally accepted that the variance between electoral districts (or wards) should be no greater the 25%. This is based in part on the principle of 'effective representation' which was discussed in the Supreme Court of Canada decision on the 'Carter' Case.ⁱⁱ

OPTIONS/ DISCUSSION:

Staff is recommending that a consultant with significant expertise in ward boundary reviews (Dr. Robert Williams, Professor Emeritus of Political Science, University of Waterloo) be retained by the municipality to facilitate the process necessary to allow a fair and equitable adjustment to Markham's current ward boundaries. The review will result in the presentation of several revised ward boundary options from which Council can select a preferred ward structure that will ensure effective representation for all Markham residents. It is anticipated that the revised ward boundary options will include:

- Several options to adjust the boundaries of the current eight wards to ensure 'effective representation' until 2022; and,
- Additional options to increase the size of council from the current eight local wards.

Upon receipt of the consultants report and recommended options, Council will be responsible for adopting any changes to the current ward boundaries.

The Terms of Reference & Process

The process for conducting a ward boundary review in Ontario is contained within the Municipal Act. The proposed Terms of Reference (see Attachment "A") are based upon the procedures adopted by numerous municipalities over the last several years.

One of the key deliverables of the project is the requirement to consult extensively with the public, including current Members of Council, throughout the review process. The public consultation process will include public meetings, invitations for written comments, and engagement of community groups and other interested stakeholders. The municipality will undertake extensive advertising of the ward boundary review to ensure that a wide cross section of Markham is engaged in the process.

The ward boundary review, including any reports and draft options for revised ward boundaries, will be guided by the following well establish principles:

1) CONSIDERATION OF REPRESENTATION BY POPULATION

- To the extent possible, wards should have relatively equal population totals.
- Given the geography and varying population densities and characteristics of the municipality, a degree of variation will be acceptable.

2) PROTECTION OF COMMUNITIES OF INTEREST AND NEIGHBOURHOODS

- It is desirable to avoid fragmenting traditional neighbourhoods or communities of interest within the municipality.

- It is considered desirable to keep historic communities contained within a ward.
- New communities should be represented within a single ward when possible.

3) CONSIDERATION OF PRESENT AND FUTURE POPULATION TRENDS

- Given the varying rates of population growth across Markham, any proposed ward designs should take account of projected population changes so that wards will be equitable for up to three (3) terms of Council.

4) CONSIDERATION OF PHYSICAL FEATURES AS NATURAL BOUNDARIES

- Consideration will be given to using natural and man-made features as ward boundaries that already serve as physical boundaries of communities.
- Where feasible, the preferred features to define a ward boundary are arterial roads, highways, railway lines, rivers and creeks.

5) THE OVERRIDING PRINCIPLE OF “EFFECTIVE REPRESENTATION”

- The specific principles are all subject to the overriding principle of “effective representation” as enunciated by the Supreme Court of Canada in its decision on the Carter case.

The 2012 Ward Boundary Review will be conducted in 4 distinct but connected phases:

PHASE 1 - INITIAL PUBLIC CONSULTATION & FACTUAL REVIEW:

- Members of Council to be consulted
- Community meetings to be arranged in each of Markham’s 8 wards
- Community groups (ratepayers association, school boards, etc.) to be invited to comment in writing or at the community meetings
- Review of historical development of Markham Ward Boundary Systems, including past OMB decisions, population trends, etc.

PHASE 2 – PREPARATION OF INITIAL REPORT & DRAFT OPTIONS FOR REVISED WARD BOUNDARIES:

- Consultant to prepare a draft report which will summarize the factual review and consultative process of Phase 1
- Draft options for revised ward boundaries to be developed
- Report and draft options to be presented to General Committee which will be asked to provide direction on which ward boundary options should be presented for further consultation

PHASE 3 – SECOND PUBLIC CONSULTATION ON DRAFT OPTIONS SELECTED BY THE GENERAL COMMITTEE:

- The public, community groups, and other stakeholders will also be asked to submit written comments
- A public meeting at the Civic Centre will be arranged to allow public comments on draft options

PHASE 4 – FINAL REPORT AND FINAL OPTIONS PREPARED:

- Consultant to prepare final report, incorporating information obtained from public consultation and final ward boundary proposals.
- Report and Ward Boundary Options to be presented to General Committee & Council
- Council will be required to pass a By-law to re-align the ward boundaries

Following the passage of the By-law, Notice will be given within 15 days of its passing. Within 45 days of the passage of the by-law, interested parties may appeal the revised ward boundaries to the Ontario Municipal Board

Under Section 222(8)(a) of the Municipal Act, a by-law to change the current ward boundaries comes into force on the day the new Council of a municipality is organized, provided that the by-law is passed (and any appeal to the OMB is settled) prior to January 1 of the year in which a regular election is held. For any change of the current ward boundaries to come into force for the 2014-2018 Council Term, the by-law must be passed and any OMB appeal settled by December 31, 2013. However, in order to effectively administer the 2014 Municipal Election, staff are of the opinion that the entire process (including any appeals to the OMB) must be completed by early Fall 2013. This is necessary to allow staff in Legislative Services time to produce maps and candidate registration packages prior to January 1, 2014. To meet the Fall 2013 implementation date, staff believes that it is necessary for Council to consider options to change the current ward Boundaries and pass any required by-law by **March 31, 2013**.

It should be noted that while revised ward boundaries do not come into force until the new council is organized (i.e. as of December 1, 2014), Section 222(9) of the Municipal Act requires the Clerk to conduct the 2014 Municipal Election as if the by-law was already in force. This means that the Clerk will organize and administer the 2014 regular election in accordance with any revised ward boundaries.

Recommended Consultant - Dr. Robert Williams

Staff is recommending the retention of Dr. Robert Williams to conduct Markham's ward boundary review. Dr. Williams is a Professor Emeritus of Political Science, University of Waterloo. He has been engaged by a number of Ontario municipalities to conduct or advise on ward boundary reviews. Some of these reviews have included: Town of Oakville, City of Kitchener, Town of Milton, Town of Whitchurch-Stouffville, and the City of Windsor. He has testified as an expert witness before the Ontario Municipal Board and has developed significant expertise in a ward boundary review. Staff believes

that by retaining Dr. Williams at this time, the ward boundary review process will be complete well in advance of January 1, 2014.

FINANCIAL CONSIDERATIONS AND TEMPLATE:

The cost of the ward boundary review is \$31,816.69, which will be funded from Project#12089 “Establishment of New Ward Boundaries” with approved budget of \$40,700. The remaining balance of \$8,883.31 will be used to support the ward boundary review (printing, communications, and other administrative costs), with any remaining balance following completion of the ward boundary review being returned to the original funding source upon completion of the projection.

BUSINESS UNITS CONSULTED AND AFFECTED:

Legal Services and Financial Services.

RECOMMENDED BY:

Kimberley Kitteringham
Town Clerk/Acting Commissioner Corporate Services

ATTACHMENTS:

Attachment “A” – Markham Ward Boundary Review 2012 – Terms of Reference

ⁱ Purchasing By-Law 2004-341 Part II, Section 7, Item 1(h), Non Competitive Procurement, provides for the waiving of the tendering process where it is in the best interests of the municipality to acquire consulting items from a preferred supplier who has a proven track record with the Town in terms of pricing, quality, and service.

ⁱⁱ The principle of ‘**effective representation**’ was discussed in the Supreme Court of Canada decision on the ‘Carter’ Case. In this decision, the Court held that “*the right to vote enshrined in s. 3 of the Charter is not equality of voting per se, but the right to ‘effective representation’.... What are the conditions of effective representation? The first is relative parity of voting power. A system which dilutes one citizen’s vote unduly as compared with another citizen’s vote runs the risk of providing inadequate representation to the citizen whose vote is diluted.*”