

CITY OF VAUGHAN

**EXTRACT FROM COUNCIL MEETING MINUTES OF APRIL 23, 2013**

Item 2, Report No. 17, of the Committee of the Whole (Working Session), which was adopted without amendment by the Council of the City of Vaughan on April 23, 2013.

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**PETITION RE: WARD BOUNDARIES**

Revised

The Committee of the Whole (Working Session) recommends:

1) That the recommendation contained in the following report of the City Clerk, dated April 16, 2013, be approved:

2) That Option 2 be adopted, and

That Council commit to conducting a broad-based ward boundary review sufficiently in advance of the 2018 municipal election, to allow for broad public consultation, the collection of independent evidence on population growth, the development of a finite number of ward boundary proposals for consideration by the public, and ultimately a single proposed configuration that in itself will be the subject of public consultation and Council's consideration;

3) That staff bring forward for Council's consideration such further considerations necessary to give effect to the review;

4) That the following deputations be received:

1. Mr. Antony Niro, Laurentian Boulevard, Maple;
2. Dr. Ron Landes, Laurentian Boulevard, Maple;
3. Mr. Bob Lehman, Laurentian Boulevard, Maple; and
4. Mr. Harold Alexander, King Vaughan Road; and

5) That the following Communications be received:

- C1. Ms. Lisa Reinhardt, York Region District School Board, Wellington Street West, Aurora, dated April 11, 2013;
- C2. Confidential memorandum of the Commissioner of Legal and Administrative Services and City Solicitor and City Clerk, dated April 16, 2013;
- C3. Ms. Susana Ochi, dated April 15, 2013;
- C4. Ms. Paula Bridgewater, Mackenzie Ridge Ratepayers' Association, dated April 15, 2013;
- C5. Mr. Robert A. Kenedy, Mackenzie Ridge Ratepayers' Association, Winters College, York University, Toronto, dated April 15, 2013;
- C6. Mr. R. Todd Robinson, Mackenzie Ridge Ratepayers' Association, Germana Place, Maple dated April 15, 2013;
- C7. Ms. Tracey Kent, Weaver Court, Kleinburg, dated April 16, 2013;
- C8. Mr. Eddy Aceti, Dundas Street West, Toronto, dated April 16, 2013 and
- C10. Presentation material, entitled "*Petition Re: Ward Boundaries, Committee of the Whole (Working Session) April 16, 2013*".

**Recommendation**

The City Clerk, in consultation with the Commissioner of Legal and Administrative Services and City Solicitor and the Commissioner of Planning recommends:

- 1) That Council give consideration to the options set out in this report respecting the response to the ward boundary petition filed pursuant to S. 223 of the *Municipal Act*, S.O. 2001, c. 25; and
- 2) That the presentation and confidential memorandum from the City Clerk and Commissioner of Legal and Administrative Services and City Solicitor dated April 16, 2013 be received.

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#### **Contribution to Sustainability**

Effective representation is a key component of a sustainable governance structure. In considering the need to amend ward boundaries, balanced representation is one factor to consider in ensuring effective representation, however other factors must also be taken into account. Indeed, any ward boundaries which may be adopted by Council must adhere to the principles established by the Supreme Court of Canada in *Carter (Reference Re: Provincial Electoral Boundaries (Sask.))*, [1992] 2 S.C.R. 158, namely:

*Parity of voting power, though of prime importance, is not the only factor... in ensuring effective representation.*

*Notwithstanding the fact that the value of a citizen's vote should not be unduly diluted, it is a practical fact that effective representation often cannot be achieved without taking into account countervailing factors. First, absolute parity is impossible. It is impossible to draw boundary lines which guarantee exactly the same number of voters in each district.*

*Secondly, such relative parity as may be possible of achievement may prove undesirable because it has the effect of detracting from the primary goal of effective representation. Factors like geography, community history, community interests and minority representation may need to be taken into account to ensure that our legislative assemblies effectively represent the diversity of our social mosaic. These are but examples of considerations which may justify departure from absolute voter parity in the pursuit of more effective representation; the list is not closed.*

Given that the population of Vaughan will continue to grow, it should also be noted that conducting frequent ward boundary reviews and continually adjusting the boundaries is not a sustainable activity. The frequency of these reviews must be balanced against the need to ensure stability in the City's governance structure. Frequent changes to ward boundaries may create confusion.

Finally, though not a determining factor, undertaking a ward boundary review (or defending an appeal) at the same time as election planning and administration activities are underway strains limited resources both inside the organization and outside (as in the case of the work to be done by MPAC to restructure polling subdivisions).

#### **Economic Impact**

If Council does not pass a by-law in accordance with the petition within 90 days of its receipt, any of the electors who have signed the petition may apply to the Ontario Municipal Board (OMB) to have the municipality divided or re-divided into wards or the existing wards dissolved. Expenditures for expert witnesses and legal fees would likely be incurred to represent the City's interests at the Ontario Municipal Board.

If Council commences a ward boundary review, consultant's fees for facilitation and planning projects are estimated at \$40,000 to \$200,000, depending on the level of involvement and time frame.

Funding would be sourced from the election reserve however the reserve would need to be replenished to ensure the proper administration of general municipal elections.

#### **Communications Plan**

A public consultation plan would be a key component when contemplating changes to the ward boundaries.

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#### **Purpose**

The purpose of this report is to provide further analysis of the options for responding to the petition filed pursuant to S. 223 of the *Municipal Act*, S.O. 2001, c. 25 requesting that Council pass a by-law dividing or re-dividing the municipality into the six (6) wards described in the petition.

#### **Background – Analysis and Options**

##### **Legislative Framework**

Under Section 223 of the *Municipal Act*, 2001, S.O. 2001, c. 25, electors may present a petition to Council requesting that Council pass a by-law dividing, re-dividing or dissolving wards. The petition requires signatures of 1% of the total number of electors in the municipality or 500 electors, whichever is less, but with a minimum of 50 signatures. Five hundred (500) electors would have to sign a petition in the case of a population the size of the City of Vaughan.

If Council does not pass a by-law in accordance with a petition within 90 days after receiving it, any of the electors who signed the petition may apply to the Ontario Municipal Board (OMB) to have the municipality divided or re-divided or have the existing wards dissolved. The OMB will hear the application and may make an order dividing, re-dividing or dissolving wards. The OMB is free to accept or reject the proposal being considered or to make other changes to the ward boundaries.

##### **Ward Boundary Petition**

At the Committee of the Whole meeting of February 26, 2013, a petition pursuant to S. 223 of the *Municipal Act*, S.O. 2001, c. 25 was submitted by Mr. Antony Niro asking Council to pass a by-law adding one new ward along with boundary adjustments to most of the other wards, increasing the number of wards from five to six. The City Clerk's Office reviewed the petition submitted for statutory compliance and found that it met the threshold number of 500 electors.

On March 7, 2013, Mr. Niro submitted a report to the Office of the City Clerk entitled 'Public Ward Boundary Review' prepared by Dr. Ronald G. Landes as supporting documentation for the petitioners' proposal.

At the Council meeting of March 19, 2013, the City Clerk reported on options for responding to the ward boundary petition. Council directed that these options be submitted to the Committee of the Whole (Working Session) for consideration and public input.

##### **Recent Council Decision on Ward Boundary Review**

Council gave consideration to the matter of a Ward Boundary Review just over one year ago. At its meeting held on February 21, 2012, Council decided that a Ward Boundary Review not be conducted before the 2014 general municipal election.

Several factors were presented to Council to assist in its review and decision on this matter, including the principles established by the courts on electoral representation, particularly the decision of the Supreme Court of Canada in *Reference Re: Provincial Electoral Boundaries (Sask.)*, [1992] 2 S.C.R. 158 (referred to as the "Carter case"). Additional factors that were considered included the following:

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##### 1. OMB Decision – 2010 General Municipal Election

The Ontario Municipal Board (OMB) decision prior to the 2010 general municipal election concluded that the current boundaries respect the *Carter* principles at the point in time the Order was made and that it is for Council to determine whether the current model provides for effective representation for the purpose of the next election.

##### 2. The Concept of Effective Representation

A consideration in determining whether a ward boundary review should take place is the question of whether the citizens of Vaughan are receiving (and will receive, for the elections contemplated by the review) effective representation from their Council.

“Effective Representation”, as noted in previous reports on this matter, is not simply a mathematical concept. Amidst the array of factors and considerations that are taken into account in assessing models for ‘effective representation’, the primary goal is to establish relative parity of voting power.

##### 3. Resource Impact of Ward Boundary Reviews

Council was also made aware of the breadth of study, analysis and consultation involved in conducting a Ward Boundary Review – a major undertaking that affects not only citizens, but election staffing and planning. Given the scope and magnitude of election administration, decisions regarding a Ward Boundary Review need to be made well in advance of an election to allow for any necessary appeals and then implementation. A review undertaken now will necessarily have a negative impact on planning for the 2014 general election.

##### 4. Frequency of Ward Boundary Reviews

While the City of Vaughan continues to grow and there is recognition that the ward boundaries should be reviewed periodically, the frequency of review and redistribution must be balanced against the need to ensure a stable representative structure.

The *Carter* decision speaks to the challenge of trying to achieve absolute parity of representation:

*“Notwithstanding the fact that the value of a citizen's vote should not be unduly diluted, it is a practical fact that effective representation often cannot be achieved without taking into account countervailing factors. First, absolute parity is impossible. It is impossible to draw boundary lines which guarantee exactly the same number of voters in each district...”*

*Given that the boundaries will govern for a number of years, projected population changes within that period may justify a deviation from strict equality at the time the boundaries are drawn.”*

##### 5. Major Development Prior to 2018 Municipal Election

Future development of the Vaughan Metropolitan Centre, intensification in Thornhill Centre and other major development proposals in the City, including development of greenfield sites such as Carrville, Blocks 61, 40/47 and others will have a significant impact on population distribution. The full extent of this development will not be known until after a 2013 study is conducted and timing for commencement of New Communities Area Plans is known. It would therefore be premature to redistribute population for the 2014 general municipal election.

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##### The Countryside Ward Boundary Proposal

The petitioners are proposing the creation of a sixth ward – a ‘countryside ward’. It is noted that this ward, while initially smaller in terms of its population, will grow over the next five years to be within plus or minus 25 per cent by 2018, a common variance threshold used in boundary realignments.

The proposed Ward 6 encompasses Kleinberg and approximately 1,000 rural residents, plus estate residential developments. In addition to this rural area, the proposed ward includes current urban areas under development in Blocks 12, 33 West and 40. According to the 2011 Census, over one half of the population in the proposed Ward 6 is in urban areas.

Looking to the future, there are also two blocks designated as “New Community Areas” in the new Official Plan. The new Official Plan also includes the Kleinburg Estates development which has lands designated mixed-use development and “Mid-Rise Residential”, as well as the Highway 400 North Employment Lands. The community of interest is defined partly based on the rural nature of the area, but with future urban growth, including planned development of New Communities Areas (Blocks 27 and 41), it is not clear whether or how this community of interest will be sustained.

Even with the six ward proposal, it is projected that relative parity will not be achieved for the 2014 general municipal election. As shown in Table 1, the petitioners’ analysis shows that as of the 2011 Census the new Ward 6 would have deviated from the average ward population by over 23,000 persons, or 48.6 percent.

**Table 1 – Petition Proposal for Six Wards**

Ward	Petition - Proposal for Six Wards		
	Population	+/- From Average	+/- %
1	52844	4794	10.0
2	52440	4390	9.1
3	52805	4755	9.9
4	47017	-1033	-2.2
5	58498	10448	21.7
6	24697	-23353	-48.6
<b>Total</b>	288301		
<b>Average</b>	48050		

##### Regional Redistribution

The petitioners have also put forward a proposal to elect three Regional Councillors on a ward basis – under a six ward system using a two-ward constituency structure. The question of whether or not to enlarge Regional Council or change Regional Council representation is outside the scope of a Ward Boundary Review, being the subject of a separate statutory process. Further, there are no Canadian legal cases which compare how electing councillors at-large across a municipality versus on a ward basis, contributes to effective representation

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Population Analysis and Relative Parity

A balanced distribution of population by ward is one of several factors to consider in ensuring effective representation. Other factors include geography, community history, community interests, minority representation and projected growth.

As noted in the *Carter* decision, absolute parity, wherein each ward has exactly the same population, is impossible to achieve. It also does not ensure “effective representation”. It is more reasonable to strive for ‘relative parity’, wherein electoral wards are relatively equal in size and where each vote cast has a similar weight.

As shown in Table 2 below, and in previous Ward Boundary Reports, the current ward boundaries are within the accepted variance threshold of 25 percent per the 2011 Census. Table 2 shows population counts prepared by the City of Vaughan from the 2011 Census compared to the counts submitted in Dr. Landes’ report on behalf of the petitioners. Table 3 shows the same comparison using the proposed 6 ward system. In both instances, the population counts are very similar.

**Table 2 – Population Counts  
Current 5 Ward System**

Ward	Vaughan Analysis			Petition Analysis		
	Population	+/- From Average	+/- %	Population	+/- From Average	+/- %
1	64687	7029	12.2	64365	6705	11.6
2	52314	-5344	-9.3	52440	-5220	-9.1
3	60169	2511	4.4	60163	2503	4.3
4	44972	-12686	-	45195	-12465	-
5	66150	8492	14.7	66138	8478	14.7
<b>Total</b>	288292			288301		
<b>Average</b>	57658			57660		

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**Table 3 – Population Counts  
Proposed 6 Ward System**

Ward	Vaughan Analysis			Petition Analysis		
	Population	+/- From Average	+/- %	Population	+/- From Average	+/- %
1	52989	4940	10.3	52844	4794	10.0
2	52314	4265	8.9	52440	4390	9.1
3	52789	4740	9.9	52805	4755	9.9
4	46031	-2018	-4.2	47017	-1033	-2.2
5	59370	11321	23.6	58498	10448	21.7
6	24799	-23250	-48.4	24697	-23353	-48.6
<b>Total</b>	288292			288301		
<b>Average</b>	48049			48050		

### Ward Boundary Petition - Options for Council

As a result of receiving a petition pursuant to S. 223 of the Municipal Act, S.O. 2001, c. 25, requesting a re-division into six (6) wards, Council has the following options:

Option 1– Conduct a City-led Ward Boundary Review with a potential for 2014 Implementation

If Council were to re-consider its previous decision and decide to proceed with a review for a potential 2014 implementation, the process would need to be completed before January 1, 2014 in order for boundaries to come into effect for the 2014 general municipal election. This time frame must also allow for the resolution of any appeals that might be filed. Given the limited time between now and the January 1, 2014 deadline, an accelerated and abbreviated review process would be required.

The review process would include the follow elements:

- Procure independent population projections;
- Procure independent ward boundary review facilitation services;
- Compile detailed analysis of population data and growth projections;
- Develop a range of proposals that can be tested using the *Carter* principles with a view to presenting a limited number of proposals to Council;
- Conduct public consultation on a limited number of proposals;
- Consult with school boards;

Any ward boundary adopted as a result of this process would be subject to appeal.

Option 2– Conduct a City-led Ward Boundary Review for 2018 Implementation

A Ward Boundary Review is an extremely important and lengthy task. Based on the experience of many municipalities, including Vaughan, and the outcome of previous OMB Ward Boundary hearings, there are a number of guiding principles for a Council to consider in conducting a Ward Boundary Review. This includes ensuring a strong and effective public consultation process.

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Should Council wish to proceed in accordance with its previous decision on this matter, it is recommended that a Ward Boundary Review commence after 2014 for implementation in the 2018 general municipal election. The review process would be similar to that outlined in Option 1, but would be more expansive in its analysis and consultation.

This option would also provide an opportunity to consider the growth implications of Vaughan Metropolitan Centre and other major developments once the new Official Plan is approved and servicing decisions at the Region are made. Based on approved applications and the speed of build out, we anticipate an additional 4400 units in the City by 2018. Undertaking a Ward Boundary review within the 2018 time frame would allow consideration of these developments in various ward boundary options and scenarios. In addition, there will be more information and greater certainty as to the timing for planning and build out of New Communities Areas and greenfield areas, including Carrville, Block 40/47 and other sites (Blocks 27,41).

The purpose of a review is to determine how to achieve 'effective representation' and the principles set out by the Supreme Court of Canada in *Re: Provincial Electoral Boundaries (Sask.)*, the 'Carter' case.

A preliminary budget estimate for a thorough Ward Boundary Review, based on information obtained from other municipalities, is approximately \$40,000 to \$200,000. This would include:

- Consulting Fees
- Public meetings/public consultation
- Internal staff time and resources
- Legal proceedings before the OMB (including external legal counsel)

Any ward boundary adopted as a result of this process would be subject to appeal.

#### Option 3 – Pass a By-Law to Re-divide the Wards in Accordance with the Petition

The petition represents less than 0.5% of the population of Vaughan. Approval of the proposal would be done without the benefit of a comprehensive public consultation process and independent analysis of the proposal.

The proposal is predicated on a population analysis which is premature and does not rectify population imbalance until 2018. There is therefore not the urgency to approve this proposal for 2014. Further, there is insufficient evidence to support a distinct community of interest as a basis for redistribution. Though the proposed Ward 6 is described as a "Countryside Ward" it contains fewer than 1,000 people living on rural (i.e. Farm) land, with the balance living in established communities like Kleinburg and supplemented with new urban areas, including estate residential.

Any ward boundary adopted as a result of this process would be subject to appeal.

#### Option 4 – Take No Action

If Council chooses not to pass a by-law within 90 days of receiving the petition, any elector who signed the petition may apply to the Ontario Municipal Board to have the municipality divided or re-divided into wards or to have the existing wards dissolved. The City would be able to present evidence in support of Council's position, but the decision would be left to the Ontario Municipal Board and the Board can make any decision on boundaries including no change to wholesale



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changes. Costs for consultant and legal fees would be incurred to represent the City's interests at the Board similar to what would be required in conducting a Ward Boundary Review. A separate confidential memorandum from the Commissioner of Legal Services and City Solicitor and City Clerk has been distributed to Members of Council on this topic.

#### **Conclusion**

With the filing of a petition under S. 223 of the *Municipal Act*, S.O. 2001, c. 25, Council has 4 options to consider:

- Option 1 – Conduct a City-led Ward Boundary Review with a potential for 2014 Implementation
- Option 2 – Conduct a City-led Ward Boundary Review with for 2018 Implementation
- Option 3 – Pass a By-Law to Re-divide the Wards in Accordance with the Petition
- Option 4 – Take No Action

Any ward boundaries which may be adopted must adhere to the principles established by the Supreme Court of Canada in *Carter* (Reference Re: Provincial Electoral Boundaries (Sask.)), [1992] 2 S.C.R. 158). Parity of representation is only one of several factors to be considered in ensuring effective representation.

The population analysis demonstrates that the current ward structure satisfies the criteria that wards should be of approximate equal population, with a variance of plus or minus 25 per cent. This is further supported by the analysis submitted in the background report prepared by Dr. Ronald Landes on behalf of the petitioners. The fact that the six ward proposal submitted by the petitioners does not improve the variance in population until 2018 demonstrates that there is no urgency to approve the proposal for 2014.

A Ward Boundary Review is an extremely important task which should include thorough research, adherence to the principles of *Carter*, and a strong and effective consultation process. Conducting a Ward Boundary Review for 2018 implementation will ensure that these critical requirements are met.

#### **Attachments**

- Attachment 1 Existing Ward Boundary Map
- Attachment 2 Ward Boundary Map as provided in the Landes report

#### **Relationship to Vaughan Vision 2020/Strategic Plan**

This report is consistent with the priorities previously set by Council as set out in Vaughan Vision 2020, particularly:

MANAGEMENT EXCELLENCE –  
Demonstrate Leadership and Promote Effective Governance

#### **Regional Implications**

Not applicable.

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**Report prepared by:**

Barbara A. McEwan, Deputy City Clerk Ext. 8628  
Donna Winborn, Elections Coordinator, Ext. 8241

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)