



**Town of Aurora
General Committee Report No. CS19-018**

Subject: Electoral System Review
Prepared by: Michael de Rond, Town Clerk
Department: Corporate Services
Date: May 7, 2019

Recommendation

- 1. That Report No. CS19-018 be received; and**
- 2. That should the Town of Aurora boundaries remain unchanged by the current Regional Governance Review being conducted by the Provincial Government;**
 - a) That Capital Project No. 13025 - Electoral System Review be approved; and**
 - b) That a total budget of \$60,000 be approved for Capital Project No. 13025 – Electoral System Review to be funded from the Studies & Other Capital Reserve Fund.**

Executive Summary

This report seeks conditional approval of an in-year capital project to issue an RFP for a consultant to complete an electoral system review in the Town of Aurora. The review would consider various ward system configurations for the Town, as well as involve significant public consultation. The report goes into further detail regarding the following;

- A review of the Town's electoral system is warranted and largely driven by population growth
- Electoral system reviews generally follow guidelines from the Supreme Court of Canada's Carter Decision as well as prior Ontario Municipal Board decisions
- Staff are recommending that a consultant be retained through an RFP process to complete the review
- Staff, through consultation with the Governance Review Ad Hoc Committee, recommend that the electoral system review not go forward until the Province completes the Regional Government Review

Background

The *Municipal Act, 2001* provides the framework within which municipalities may conduct an electoral system review. Section 222 of the *Municipal Act* provides Council with the authority to define the number of and boundaries of electoral districts, or wards, through the passage of a by-law. Once the by-law is passed, the new ward boundaries come into force during the next regular election as long as the by-law is not appealed to the Local Planning Appeal Tribunal (LPAT).

The past two terms of Council have considered an electoral system review. Prior to the 2010 Municipal Election, Council considered but ultimately defeated a motion to put a question on the ballot regarding the establishment of a ward system in Aurora. Prior to the 2014 Municipal Election, Council voted to include a question on the ballot asking voters whether they would prefer a ward system to elect their representatives. The results of that vote were 54.75% - 45.25% (6,670 – 5,512) in favour of continuing to elect all Council by at-large vote. At the time, Council chose to take no action regarding an electoral system review.

Analysis

A review of the Town's electoral system is warranted and largely driven by population growth

According to Census data, the population of Aurora in 2016 was 55,455. As stated in the population statistics in York Region's annual Growth and Development Report, the Town of Aurora continues to be one of the fastest growing municipalities in the Region with a 2.5% increase in population between 2014 and 2015, 4.2% increase between 2015 and 2016, and 5.7% increase between 2016 and 2017. The Town's Official Plan growth forecasts estimate the Town's population to increase to 68,100 before the next Municipal Election, and 70,200 by 2031.

All municipalities in Ontario with a population greater than 50,000, with the exception of North Bay, have adopted a ward system for electing their Councils. With the City of Oshawa moving back to a ward system before the last election, the Town of Aurora is now the largest municipality in Ontario to elect their representatives using the at-large system. This is not to say that Aurora must make a change to the ward system, as North Bay also uses an at-large system and has just 4,000 less residents (2016 census) than Aurora, but that looking at whether the at-large system is still best for Aurora warrants a review.

Electoral system reviews generally follow guidelines from the Supreme Court of Canada's Carter Decision as well as prior Ontario Municipal Board decisions

The Carter Decision (1991) is the leading decision concerning electoral boundaries and the right to vote under the Canadian Charter of Rights and Freedoms. The case stemmed from a challenge to the Provincial electoral boundaries established by the Province of Saskatchewan and eventually made its way to the Supreme Court. In its decision, the Court established that the right to vote under the Charter instituted a right to "effective representation", rather than absolute voter parity (the principle of having voting subdivisions that are as close to equal population as possible, regardless of other factors) reflected by the concept of "one person, one vote" established by the United States Supreme Court.

The *Municipal Act, 2001* does not provide any criteria to guide the Town's electoral system review process; however, the Carter decision and decisions issued by the Ontario Municipal Board (now Local Planning Appeals Tribunal) have established a set of guiding principles that have been applied to most, if not all, boundary reviews in Ontario. These guiding principles include;

Effective Representation

The main tenant of the Carter decision is effective representation, rather than absolute voter parity. When defining effective representation as the right protected by the Charter, the Court noted that the relative parity of voting power was a prime, but not an exclusive, condition of effective representation. It found that deviations could be justified where the consideration of other factors, such as geography, community history, community interests and minority representation would result in a legislative body that was more representative of Canada's diversity. According to the Court, considering all of these factors provides effective representation.

Representation by Population

The principle of representation by population is founded on the premise that each person is entitled to one vote and that all votes should carry the same weight. Accordingly, in support of this principle, it is expected that each elected representative should generally represent the same number of constituents. This principle, in a ward system, is tied closely to the principle of effective representation, as any deviation from voting parity would dilute an individual's right to effective representation.

Protection of Communities of Interest and Neighbourhoods

As noted in the Carter decision, the recognition and protection of communities of interest may justifiably override the principle of voter parity where the inclusion of a community of interest will lead to a system that is more representative of the Town's diversity. The Court did not define what constitutes a community of interest; however, it has been leveraged in Ontario Municipal Board appeals to recognize historical settlement patterns or existing communities and to represent social, historical, economic, religious, linguistic or political groups.

Applying this principle in an electoral system review will protect existing communities of interest and should ensure that they are not divided by a ward boundary. Generally, boundaries are drawn around communities of interest and communities with common interests are, where possible, grouped together. Given that there is no clear definition of a community of interest and an abundance of competing criteria, the electoral system review will need to examine potential areas on a case-by-case basis.

Future Population Trends

The consideration of future population trends is intended to support the principles of representation by population and effective representation by ensuring that relative voting parity and political representation remains relatively equal between wards. Being mindful of anticipated population trends will ensure that a ward and its residents are neither advantaged, nor disadvantaged as a result of development activity throughout the city. It is impractical to revisit the ward boundaries after each election cycle and so it is appropriate to establish a system that will provide effective representation that includes future growth.

Physical Features as Natural Boundaries

The Town of Aurora has a number of major thoroughfares and a railway line that act as points of reference and boundaries for its residents. Where available, physical features should be leveraged as they create preexisting boundaries which naturally divide the Town's residents and may facilitate the effective representation of the ward's residents.

Staff are recommending that a consultant be retained through an RFP process to complete the review

Electoral system reviews are uncommon projects for municipalities and usually occur every 8-12 years. The Town requires someone with expertise in this unique field of knowledge as well as the credibility that person will bring to the overall project. Further to this, staff will seek a consultant that is familiar with the legal aspects of the review

and the extensive stakeholder outreach required. Finally, as the aforementioned guiding principles established by the Carter decision are commonplace in electoral system reviews, the consultant will be familiar with the principles and will factor them in suggesting systems for Aurora.

Generally, electoral system reviews are more involved than a regular ward boundary review. The Town's consultant will be required to do an in-depth analysis of the Town, including the features outlined in the guiding principles, to determine appropriate ward options for Aurora. The electoral system review process is expected to be an extensive project that could take up to a year to complete. As such, staff are recommending that the project commence as soon as possible to allow time to consider any appeals prior to 2022 Municipal Election.

The consultant will work closely with the Town Clerk and the Governance Review Ad Hoc Committee, who will review the work of the consultant before it is incorporated into any public consultation sessions.

Staff, through consultation with the Governance Review Ad Hoc Committee, recommend that the electoral system review not go forward until the Province completes the Regional Government Review

The Provincial Government is currently undertaking a Regional Government Review, which aims at making recommendations to improve service delivery in parts of Ontario. At this point, few details have emerged as to what changes could be coming to municipal boundaries, if any at all. It has been rumoured that the Government intends to release their findings in the late Spring or over the summer, however, this is not confirmed.

At their meeting on April 1, the Governance Review Ad Hoc Committee agreed unanimously that the Town's review should not proceed until the Town has confirmation that the Town of Aurora's boundaries will not be changing as a part of the Province's review.

Advisory Committee Review

At the April 1, 2019 meeting of the Governance Review Ad Hoc Committee, the Committee discussed the merits of proceeding with an electoral system review. The Committee supported the idea of the review and unanimously agreed that the Town's

review should not proceed until there is confirmation that the Town of Aurora's boundaries will not be changing as a part of the Regional Government Review.

The Committee also endorsed seeking conditional approval and funding from Council now so that the Town is ready to initiate the electoral system review process, pending the outcome of the Regional Government Review.

Approving the recommendations contained in this report also provides a mandate to the Governance Review Ad Hoc Committee that Town Council wants to study the Town's electoral system and present options to the public.

Legal Considerations

Section 222 of the *Municipal Act, 2001* provides that Councils may, by by-law, split their territory into smaller voting subdivisions (wards) or dissolve wards. This by-law is subject to appeals.

Financial Implications

Staff recommend that Council allocate \$60,000 from the Studies and Other Capital Reserve Fund for this review. This amount is based on the experiences of the municipalities of East Gwillimbury and Oshawa who both recently conducted similar reviews.

The Town of Aurora's review will be more work than a regular ward boundary review for a similar municipality as those usually only require minor adjustments to already in place wards. The Town's consultant will be using a blank canvas and likely need to do street-by-street analysis to determine appropriate ward options for Aurora. For this reason, staff are requesting funding on the higher end of the scale.

Communications Considerations

An electoral system review requires substantial public consultation. Legislative Services staff, Communications staff and the consultant will work closely to develop an extensive stakeholder consultation plan that will include public meetings, social media outreach and the use of online tools, such as interactive maps.

Link to Strategic Plan

By undertaking an electoral system review the Town is showing its commitment to **good governance** by exploring the optimal system for Town of Aurora residents to elect their representatives.

Alternative(s) to the Recommendation

1. That Council provide direction.

Conclusions

The Municipal Act does not stipulate how often municipalities must complete Electoral system reviews/ward boundary reviews. This report makes the case that this is an appropriate time for a review in Aurora and sets out the guiding principles for how that review would take shape.

It is important to note that adopting the recommendations of this report does not constitute a switch to the ward system for the Town. As part of the review, the status quo option of the at-large system will remain an option until the end of the project.

Attachments

None

Previous Reports

Report No. CLS10-13 – Possible Ward Question on the Ballot

Report No. LLS14-013 – Determination of Two Questions on the Ballot

Report No. LLS15-011 – Questions on the Ballot – 2014 Municipal Election Results

Pre-submission Review

Agenda Management Team review on or before April 25, 2019

May 7, 2019

Page 8 of 8

Report No. CS19-018

Departmental Approval

Approved for Agenda



for **Techa Van Leeuwen**
Director
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Doug Nadorozny
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