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Ontario Municipal Board

Commission des affaires municipales de l'Ontario

Beverly Wagar, Stephen Truner, Samuel Trosow and others have applied to the Ontario Municipal Board under Section 223 of the *Municipal Act*, S.O. 2001 c. 25, resulting from a petition to redivide the Corporation of the City of London to change the composition of Council to 15 members consisting of one Mayor and 14 Councillors elected in one ward each, and to eliminate the Board of Control
O.M.B. File No. M050088

APPEARANCES:

Parties

Counsel*/Agent

Beverly Wager, Stephen Turner, Robert Porter and Gil Warren

S. E Trosow

City of London

L. D. Pasternak*

DECISION DELIVERED BY D. L. GATES

This hearing was preceded by a Prehearing Conference on September 19, 2005. At the Prehearing Conference it became very evident that there were three main issues before the Board:

1. The continued existence of London's Board of Control;
2. The number of London Councillors;
3. Ward boundaries.

1. BOARD OF CONTROL

At the Prehearing, the City brought a motion based on the jurisdiction of the Board under the *Municipal Act* to rule on the termination of London's Board of Control and also the issue of the number of Councillors per Ward.

The Board, for reasons that will not be restated here, has decided in favor of the City on the issue of whether London's Board of Control should be eliminated. The Board came to its conclusion based on the specific wording of the *Municipal Act*. It is now up to the City to decide the role and fate of London's Board of Control.

2. NUMBER OF COUNCILLORS

Respecting the second major issue, the number of Councillors per Ward, at the Prehearing the Board reserved its decision pending the outcome of this hearing.

At this hearing the City took the position that 14 Councillors remains an appropriate number. The City introduced evidence of other similarly sized municipalities with the number of electors per Councillor set out for each. Similarly the Applicants did not challenge the number of Councillors at 14 at this hearing. The Applicants provided the Board with evidence that also supported the number of Councillors at 14. Based upon the forgoing and the evidence before the Board that London is a "single tier" municipality undergoing growth and renewal in its rural, suburban and urban areas, the Board finds that 14 Councillors are appropriate.

3. WARD BOUNDARIES

The City of London is governed by a Mayor, a four-person Board of Control elected at large and who vote on all Council matters, and 14 Councillors, two Councillors per Ward. There was evidence given at the hearing that London is the only municipality in Ontario to still have a Board of Control, and may be the only municipality in Canada to retain this body. The London Board of Control acts as its Executive Committee overseeing such matters as budget, finance, legal and human resources subject always to City Council's ultimate approval.

To understand the evidence to follow it is necessary to visualize the Ward system in London. It was described by some witnesses at the hearing as each Ward boundary being a spoke in a wheel radiating out from the business center, through suburban London, to its rural agricultural limit. To visualize it as described would overstate each Ward's symmetry and understate each Ward's randomness in its boundaries caused by geography and population density.

It would be more apt to describe London as pie-shaped starting from a downtown center and irregular boundaries such that some Wards would represent long thin slices of a pie and others would represent short wide slices Attachment 2. Generally, each Ward contains a small portion of the downtown, a slightly larger portion of an older

London residential area, a large portion of more recently built suburban London and greatly varying amounts sparsely populated agricultural land at its outer limits.

In addition to the Board of Control what also distinguishes London from other cities in Ontario of relatively the same size is its sparsely populated but extremely large agricultural area, largely to the south. Because this area is so sparsely populated it was conceded by both parties that it must attach to a more densely populated area. Therefore both parties have attempted to integrate the rural population into a larger more urban Ward(s). The Board finds there is not enough rural population to justify creating a separate agricultural Ward in London; no one requested it nor, was there any evidence to support it.

LONDON'S STRUGGLE WITH GOVERNANCE

London has a history of reviewing its governance structure. Mr. Hopcroft a City witness at this hearing and a Controller in the 1990's, testified that pie-shaped pattern of Ward structure has been in place since the mid 1970s and perhaps earlier. Annexation in the early 1990s caused the Mayor to ask Mr. Hopcroft to chair a Committee to review the City's governance structure. While there were some time limitations, it appears that a very thorough review took place at that time with significant public input.

The City publicly debated the issue at Council and decided it would continue the pie-shaped Ward system that preexisted except that the new large agricultural area, which existed largely in South London on either side of Highway 401, would be divided up, and each of the abutting Wards would share some of the agricultural area. At the same time the Committee recommended and City Council accepted the continuation of London's Board of Control. It is clear that Mr. Hopcroft played a major role in this review.

Within a year or two the question of governance arose again. This time City Council decided to form a Committee of citizens to examine the issue. The criteria used for selecting the Committee is not clear to the Board. No member of City Council was part of this Committee nor were London staff permitted to sit on the Committee. Staff resources were provided.

In 1996 this Committee recommended that City Council retain the existing structure. While this recommendation was not unanimous, it was ultimately accepted by City Council.

In May of 2002 a City Councillor wrote the Council requesting a governance review, in particular the termination of the Board of Control and moving to a 10 Ward structure, one full time Councillor per Ward. City Council in June of 2002 agreed to initiate a review of the governance structure of the City for the 2006 election. It also requested that the Board of Control identify a process for the governance review and develop questions for the 2003 municipal ballot.

Ultimately, and after considerable debate, two questions appeared on the ballot:

1. Are you in favor of reducing the present 19-member size of the municipal Council of the City of London?
2. Are you in favor of abolishing a Board of Control as part of the municipal Council of the City of London?

During the debate, the City Solicitor authored a report to London's Board of Control for its meeting on December 11, 2002. In that report he indicated that in order for the questions to be binding on the City under the Municipal Elections Act at least 50% of all eligible voters must vote on the question and that more than 50% of the votes cast on the question must be in favor. He produced a summary of the percentage turnout of eligible electors since 1973 which showed that the highest turnout ever during that period was 46.3% of eligible voters and the average was approximately 37%. The Solicitor noted that if the result turned out to be binding, the municipality was required to do everything in its power to implement the results of the question in a timely manner.

The City Clerk certified that approximately 32% of the eligible voters voted on question 1 and 76% of those who voted, voted in favor. With respect to question 2 approximately the same percentage of votes were cast with 55% voting yes.

The City was criticized at the hearing by at least one member of public for not taking any action on governance whatsoever to respect the voters who voted yes on

either of the questions. The Board finds his criticism to be fair particularly when the City knew it was most unlikely that 50% of the eligible voters would vote.

In April of 2004 the London Chamber of Commerce sent the City recommendations on governance entitled "Restructuring London". Among the many recommendations made, the Chamber recommended maintaining the Board of Control, and reducing the number of Councillors per Ward from two to one. It also recommended the number of Ward's remain at seven or be increased to 10.

This year, the City commenced another governance review and met on April 14, 2005 as a Committee of the Whole. The Committee of the Whole asked civic administration to report back with options for consideration at the City Council meeting on April 18, 2005 regarding the composition of Council including the number of Wards based on one Councillor per Ward and the method of election or selection of an Executive Committee. Scenarios were to be developed by staff based upon key considerations identified by the Committee of the whole at its meeting of April 14, 2005 as follows:

- Decrease the size of Council,
- Maintain the current range of population the representation,
- One Councillor per Ward,
- Increase the number of Wards,
- Refine the definition of an Executive Committee, elected at large or by Council.

Four scenarios were prepared by staff for Council's consideration at its meeting of April 18, 2005:

1. Mayor, Executive Committee elected at large, one Councillor in each of 10 Wards (Council size 15);
2. Mayor, Executive Committee elected at large, one Councillor in each of 14 Wards (Council size 15);
3. Mayor, Executive Committee elected at large, one Councillor in each of eight Wards (Council size 13); and
4. Mayor, Executive Committee appointed by Council, one Councillor in each of 12 Wards (Council size 13).

The Board notes that each scenario contemplated the retention of an Executive Committee however named or elected and the elimination of two Councillor Wards. The report which was considered by the Mayor and members of London Council on April 18, 2005 also included a schedule "D", which summarized the different criteria and guiding principles for establishing Ward boundaries. I have appended that schedule as Attachment 1 to this decision.

On May 4, 2005 the City Clerk forwarded a set of maps which included the existing seven Ward system and also 8, 10, 12, and 14 preliminary draft Ward maps. The 14 Ward draft map is appended as Attachment 3.

The City advertised and held a public meeting on May 17, 2005 with respect to governance options. A number of citizens made oral submissions including Mr. Sam Trosow and Mr. Andrew Sancton, both of whom assumed significant roles in this hearing.

At the conclusion of the May 17 meeting after hearing all of the representations, the Committee of the Whole recommended to Council that the existing governance system consisting of the Mayor, the four person Board of Control elected at large and two Councillors in each of seven Ward's be maintained.

At about this time Mr. Trosow, a professor at the University of Western Ontario, together with some other like-minded individuals circulated a petition under section 223 of the *Municipal Act*. This petition was filed with the City of London and certified by the manager of Licensing and Elections for the City as containing signatures of at least 500 qualified electors on June 9, 2005 in accordance with the Act. The substance of the petition was that the City pass a bylaw to redivide the municipality into 14 Wards with one Councillor per Ward and eliminate London's Board of Control. Attached to the petition was a map showing proposed Ward boundaries (known as the "Imagine London" Ward boundary map).

The question of governance and the petition were considered at the Council meeting of June 13, 2005. The petition, which contained about 900 signatures was noted and filed. City Council passed the Committee of the Whole recommendation to retain the status quo for both the Board of Control, the number of Wards, and structure

on a 10 to 8 vote, with the Mayor voting against the motion. Shortly thereafter the petitioners applied to this Board.

CITY'S EVIDENCE

The City called three witnesses all of whom resided in London and demonstrated in their evidence that they cared passionately for their City.

Grant Hopcroft

The Board paid particular attention to the evidence provided by Grant Hopcroft, currently a City of London employee. He has unique experience both as a staff civil servant and as an elected representative. He also was on the Executive of AMO (Association of Municipalities of Ontario) for many years.

Almost all of the history of London's struggle with governance issues was provided by Mr. Hopcroft. Although not qualified to give opinion evidence at this hearing, the Board has little doubt of his knowledge of London. His critique of the "Imagine London" Ward map proved invaluable to the Board in deciding this matter.

Mr. Hopcroft indicated that the current Ward structure was based on the theory that each Councillor would have an understanding of each of the other Councillors' issues because each Ward would contain some downtown core areas, some of London older residential areas, more newer suburban areas and some agricultural areas. The downtown area would therefore have 14 Councillors sharing an interest in its well-being as would the agricultural area. He testified that while the existing Ward boundaries were primarily created to ensure voter equity, "communities of interest" were taken into account.

Mr. Hopcroft also testified that he had helped create the 4 maps including the City's 14 Ward map that the Clerk sent to Council on May 4, 2005. These maps were primarily based on voter equity but he had provided some input on "communities of interest".

Mr. Hopcroft made some other important points. He noted that because the existing Ward system has been in place for so long there is now a "community of

interest” that recognizes it. Secondly in his evidence he was asked as to how he defined “community of interest”. He defined “community of interest” as matters an area would share in common.

Finally, he was asked in cross-examination whether London could ever achieve a 50% voter turnout. Mr. Hopcroft responded that it would only be possible if there were a closely contested mayoralty race, a ballot question and good weather. He was not surprised that London did not achieve a 50% turnout in the Nov. 10, 2003 election.

John Fleming

In reviewing the evidence in support of the City's position the Board noted the evidence of John Fleming, a professional planner who works for the City. Among many initiatives he outlined, he expressed particularly strong support for the City's initiatives in Old East London and in Downtown London. In his view these initiatives proved the existing governance system works, “the proof is in the pudding”. He gave three main examples to illustrate how well the current Ward structure is working: Downtown London, Old East London, the University Area.

a) Downtown London

He indicated the City had recently spent millions of dollars on downtown initiatives so as to encourage renewal. These initiatives started with a Community Improvement Plan for the downtown in 1995, greater financial support for the BIA, new tax incentive programs and major capital improvements including spending approximately \$50M on a new Sports /Entertainment Center,\$17M on converting the Eaton's/Bay Center, \$4M on the Forkes of the Thames Park, expensive improvements to Victoria Park ,John Labatt Park as well as a new market ,a new library and upgraded museum.

His evidence at this hearing must be contrasted with the letter he wrote to the Task Force On Governance in 1996 as a private citizen, which was introduced during cross-examination. Here are some quotations from that letter;

“I am a planner for the City of London and I have worked on several downtown planning at initiatives. I provide these comments to you, however, outside my capa City as a planner and as a citizen of London for over 25 years.... City studies have found time and

time again, that the citizens of London value their downtown and are concerned with its decline over the past two decades. However, the current Ward structure gives no strong voice to central London-no voice, which is accountable to a central London electorate. The downtown is important enough to surface as the focus of a significant issue several times each year. It is my opinion, however, that this City-wide resource is not best represented by relying on the collective will of Council to improve it. A strong voice that has a primary concern with, and directly accountable to, central London would give this variable resource its due status in the political decision-making process.”

b) Old East London

Mr. Fleming also used London’s Old East Village as another example of the existing political system being responsive to the needs of the community. Arising out of a Mayor’s Task Force in 1998, an independent consultant’s report was initiated and completed in 2002 at considerable expense to the City by means of a \$100,000.00 grant to the local BIA. A Planner’s Action Team Report was completed in 2003, a Community Improvement Plan completed in 2004 and an Audit completed in 2005. The Audit indicated many initiatives had been completed or well under way. Unfortunately for the City, the residents who lived in the area and who testified at this hearing saw little on the ground to show for all of this effort.

Part One of the Consultant’s 2002 Report includes a Summary of Focus Group Work. Within this summary there is a subheading entitled “11. The Vision People have for their Community”. Part S, entitled “Allies at City Hall and in other Levels of Government”, states; “It is widely believed that no one at City Hall cares what happens in this neighborhood and people dream of a day when they feel truly represented.”

Under another subheading entitled “111.Obstacles that Need to be Overcome in Order to Realize this Vision” the Report states;

“J. City Hall

....The Ward system itself may work against this area in that the Wards are pie-shaped with the neighborhood being represented by three different councillors, each of which also has suburban representation. It is believed that the suburban homeowners have the ear of the politicians to a greater degree than we do here.”

During this process about twelve focus groups met in the community at different times and places in May 2001 and one of the questions asked of the groups was whom

they thought were their allies in realizing their vision for their community. Not a single group identified City Hall as an ally.

The Planners Action Team (PACT) consisting of a number of professional planners from South-Western Ontario volunteered their time to complete this plan. They chose as their first project in South-Western Ontario a plan for the revitalization of the Old East (London) Village commercial corridor in 2003. As a preface to its 10 findings the action team noted that its findings came from professional planners from within and outside of the City and provide an honest assessment from a trained eye's perspective.

The findings are summarized as follows:

1. The residential neighborhood surrounding the commercial corridor has lost value and identity within the broader London community;
2. The commercial corridor has lost its value to both investors and most former and potential customers;
3. The residential community is no longer linked to the commercial corridor;
4. The uses that do exist on the corridor have very little to do with the surrounding residential community and some in fact are destructive or counterproductive to revitalization;
5. The commercial corridor is a product of a previous era when retail shopping patterns were much different; today's market can no longer support such a large corridor;
6. The commercial corridor is not homogeneous;
7. There is an overconcentration of social service along the corridor which while valuable, undermine the health of the commercial streetscape;
8. There is very little connection between the Western Fair and the community or the commercial corridor;
9. Physical linkages between the abundant parking and the commercial corridor are not clear and in some cases encourage crime; and

10. Traffic management practices are disadvantageous to both the community and the commercial corridor.

Another plan for Old East London, The draft Old East Village Community Improvement Plan, commenced its summary in August 2004 as follows;

1. Over the past 10 years, quality of the Dundas Street corridor, between Adelaide Street and Egerton Street, has declined significantly resulting in: a lack of business investment; declining levels of property maintenance; and, the closure and or relocation of existing businesses;”

Mr. Fleming in his evidence outlined the City initiatives to combat these problems. Under the community improvement plan three incentive programs were introduced including \$25,000 for building facade improvements, \$50,000 for upgrades to buildings for building code compliance, and a tax rebate program. The first two programs involve interest-free loans, and the third program rebates tax increase resulting from improvements to properties in the corridor. His evidence indicated that the reserve fund for this last initiative was not enough and it had to be topped up by \$625,000. In addition to these programs \$100,000 was given to the BIA for its Main Street program, the same amount as was given to the downtown.

c) University Area

Another example of the City's responsiveness under its current structure was passing of an Interim Control to deal with the issue of conversion and expansion of existing houses in stable residential communities to permit student housing. Apparently this issue of providing student housing has long existed but is now becoming more controversial.

Andrew Sancton

Perhaps the most interesting evidence the Board heard at this hearing came from Mr. Sancton, another University of Western Ontario professor who specializes in electoral boundaries. At this hearing he was qualified to give opinion evidence on behalf of the City even though most of his experience was at the federal and provincial levels.

He testified that the Board should have regard to five tests in setting Ward boundaries:

1. Equitable representation;
2. "Communities of interest";
3. Natural boundaries;
4. Serve a larger public interest; and
5. Broad public support.

He noted that the *Municipal Act* provides no guidance and that the foregoing was his summary of the tests that the Board has applied in previous cases after having reviewed the law at all levels including federal and provincial levels. He also stated that in his opinion the tests are in order of importance. He indicated that there is no guidance to assist the Board when applying these tests results in conflict. Furthermore he testified that drawing Ward boundaries is much more difficult than drawing riding boundaries at the federal or provincial levels because of the amount of detail required. He believed both the Imagine London and the City's Ward system met the test of equitable representation.

How do you define and ascertain "communities of interest"? Mr. Sancton advised the Board that there are a variety of "communities of interest", some territorial and some non-territorial. For instance there might be a "community of interest" among computer scientists that is not territorial. Shopping areas, schools, planning areas, main streets, churches, arterial roads, ravines and walkways are all examples of a territorial "community of interest". For every person there may be a number of "communities of interest". Mr. Sancton also indicated that some "communities of interest" may have to be given up in order to attain others.

In order to ascertain "community of interest" at the municipal level, Mr. Sancton suggested that the municipality listen to people who show up at public meetings, consider demographics from Statistics Canada, and look at ethnic and linguistic groups in electoral districts. Presumably the Board should apply the same criteria.

Mr. Sancton made some other observations that should be acknowledged in this decision. He stated that a two Councillor per Ward system dates back to the *Baldwin Act* and that most cities of London's size have moved to a one Councillor system.

He also stated that if he were giving this evidence 10 years ago he would be recommending a one Councillor system. Since that time he has changed his opinion and now believes two Councillors per Ward are better. He stated that he preferred the two Councillor system primarily because it reduces the chances of municipal corruption which can occur in a one Councillor Ward system particularly where one Councillor is seen to control a particular area.

Mr. Sancton also supports the existing system and notes that London's system had stood the test of time. He believes that London's system has adapted well to the growth, which has occurred over the years at the outer edges of each Ward. He believed that "communities of interest" are represented within the existing structure.

Mr. Sancton was very critical of the Imagine London map. He particularly disliked Imagine London's Ward 9, which primarily consisted of the large agricultural area south of London's Urban Area and the splitting of a regional shopping center with a Ward boundary line. When asked by the Board about whether there were any successes on the map Mr. Sancton indicated that the downtown area in particular and Old East London were well done.

When asked in cross-examination whether there was broadly based community support for the "Imagine London" map, Mr. Sancton replied, "my interpretation is that there is broad public support for anything else other than the map attached to the petition."

Applicant's Evidence

The applicant called many witness and the Board will not review the applicant's evidence on a witness by witness basis. However there were many themes, which will be summarized and commented upon.

Many witnesses spoke about individual neighborhoods and how the Ward division lines split or adversely affect individual neighborhoods "communities of

interest". This was particularly true and very evident for the downtown core, Old East London, older residential areas and the areas around Western.

There were a number of witnesses who spoke about the difficulty of running for election in London Wards because of their sheer size and the cost. Wards of 50,000 people were hard to blitz in a short campaign. Seven Wards of 50,000 voters require twice as many signs, twice the volunteer support, and twice the campaign material than fourteen Wards of 25,000 voters. Wards of 50,000 voters made it physically challenging and exhausting to visit each household. These witnesses believed that incumbents had an unfair advantage.

A similar theme that a number of witnesses shared was the focusing of an election campaign on the single-family suburban areas because in each Ward that is where the majority of the votes could be obtained in the short campaign. This meant that while Coucillors represented all of the citizens within their Ward and all of London for that matter, the suburban areas got the most attention both during and after the campaign. These witnesses said that London was not well served by the existing system.

It seems obvious to the Board that a pie-shaped Ward system could be inequitable based upon "communities of interest" because in each Ward there are more votes in the outer suburban areas. A possible result could be that suburban "communities of interest" are overprotected by City Council to the detriment of other "communities of interest".

A number of witnesses spoke of the plight of the disadvantaged and the poor who were so discouraged and cynical of existing system that they no longer voted. On this point Board must indicate that Mr. Sancton stated in his evidence that there was no correlation that he knew of that supported the proposition that if the boundaries changed there would be greater turnout from this group. Another variation on this theme could be seen in the Consultant's Report on Old East London and by the evidence given by the public at this hearing was of despair and cynicism, because residents of older downtown neighborhoods believed they were not being heard at City Hall.

Another common theme expressed by the many witnesses centered around the fact that Councillors appeared overworked and underresourced. Sometimes it was stated Ward Councillor tasks overlapped, other times it was stated one Councillor might be doing the tasks for both. Sometimes it was stated that Councillors passed the buck from one to another and citizens never got their questions answered or an understanding as to who was taking charge their issue at City Hall. Sometimes one Councillor in a Ward would support a community initiative while the other Ward Councillor would not, creating a “democratic deadlock”. The common theme of this evidence that the Board heard over and over again was that the common everyday person found that the current system to be too complex, too cumbersome and too difficult to understand.

The Board heard evidence that the large number of community associations and ratepayers groups in each Ward together with Councillors’ Council and Committee obligations made it difficult for Councillors to meet the expectations of their electorate.

A number of witnesses indicated to the Board that the Imagine London map was far better at capturing “communities of interest” centered around individual neighborhoods than the existing City Ward boundary map.

The University of Western Ontario has a student population of about 30,000 with most of its students living on or near the campus. The University has been divided into two Wards historically. There was a strong argument made by a number of students and residents that the students share a “community of interest” and should be placed in one Ward. One student indicated that they had unique issues such as transit, garbage pickup and noise and needed a unified voice at City Hall.

Analysis

The City took a broad view of “community of interest”. For instance, the City argued that citizen who lives furthest away from the City center has an interest in the transportation corridors, which lead to the City center for his or her employment or recreation. Also the merchant downtown has an interest in seeing that the roads are adequate through suburban areas so to provide ready access for his customers and has

an interest in seeing that not many big-box shopping centers are created in rural and suburban areas in as much as they may cause blight downtown.

The City's position is in stark contrast to the Applicants. The Applicants suggest that where representation by population can be maintained within reason, "communities of interest" are stronger based upon smaller local neighbourhoods. For instance downtown London and older downtown residential areas share such issues as intensification and heritage preservation. Newer suburban areas share interests around new Main Street initiatives and more suburban areas focus their "community of interest" around schools, churches, shopping, and recreational facilities.

Both notions of "community of interest" are moulded by the man-made and physical barriers in London consisting of such separators as railway tracks, marshalling yards, arterial roads, bridges, rivers, and open space.

One common theme of the evidence the Board heard from both the applicants and the City was that the downtown still needed attention. Mr. Sancton, admitted that, "London's downtown has had huge problems and required huge mobilization to get things done." Similar to Mr. Fleming, he relied on the progress made downtown as evidence the system was working.

While Mr. Fleming and Mr. Sancton gave examples of the City's responsiveness, the Board finds that these examples also demonstrate years of inaction prior to Council dealing with these problems. It appears to the Board that Council is not well connected to its constituents at the neighborhood level. Once the problem is recognized, the City then must spend a great deal of money or expend a great deal of time and resources to rectify it. Downtown issues, Old East London issues and student housing encroaching into stable residential areas are all issues still being dealt with by City Council today.

At the May 17, 2005 public meeting Mr. Sancton made an oral presentation and commented on the governance issue and noted the difficulty, which would be associated with the creation of 14 Wards based only on "communities of interest". He expressed the view that full-time Councillors were not required and expressed support for a governance system, which includes a combination of representatives elected at large and in Wards. He further indicated support for the continuation of the Board of

Control and expressed support for the City's Executive Committee [Board of Control] being chosen by the voters.

It is interesting to note that City Council at that time was only considering single Councillor Wards as alternatives to the existing structure. If Mr. Sancton believed then (6 months ago) that single Councillor representation was so inferior, the Board does not understand why Mr. Sancton did not raise it at that time so as to be recorded in the minutes as were his other comments.

Because London still has a Board of Control, I do not share Mr. Sancton's concern about one Councillor Wards being vulnerable to corrupt councillors. If this hearing involved any other municipality in Ontario, based on his evidence, I might be concerned. In London citizens who are not being heard by their own Councillor for whatever reason would still be able to go either to the Mayor or any one of their Controllers to find a willing ear.

The Board must decide this hearing on the evidence it heard. Other than the three witnesses the City called, the Board heard no support for the City's existing Ward structure even at the evening set aside for hearing from the public where anyone could attend. The Board heard from over 15 witnesses that evening.

The applicants in their testimony and argument raised the issue of deference. They suggested the City should not be accorded deference by this Board because of the procedure leading up to and the receiving of their petition by London Council. Part of their argument was that there was little involvement of the public in the governance issue in 2005. Mr. Hopcroft testified that the process in 1994 had greater public involvement than the 2005 process.

The applicants argued that over a year passed before the City seriously undertook a governance review after the 2004 election, and the public were not consulted before hand nor were they given much opportunity for input. The evidence of the minutes of the various meetings would appear to confirm their assertions. Because of this delay, it may not be possible for the municipality to implement the Board's decision for the 2006 municipal election unless the Ward boundaries are finalized in 2005.

The applicants suggest that there should be no municipal deference here because of the municipality's conduct. I do not find that these issues are linked. I do not find fault with the municipality summarily receiving the applicants' petition, particularly after the many years that governance has been debated in London. The Board agrees however that the process would have been far more inclusive had the public been more involved from the outset.

On the issue of deference, the City believes that it should be shown deference and that there is a high burden on the applicants to show a pressing need for change. The applicants' alternative position was that if this was the case, then they had met this burden.

The Board finds the applicants have met this burden. Board finds there is a pressing need for change, which has been amply demonstrated by the evidence referred to above. The Board is convinced that the existing Ward structure has undermined City Council's ability to connect with its citizens. Evidence supporting this conclusion came from the applicants' witnesses, the City's witnesses and the public.

London is in a unique position with its Board of Control and the Municipal Board finds that with the Board of Control and a single Councillor based Ward system, London can achieve a unique blend of strong central power and strong grassroots connections. With the advance of e-mail, digital cameras, cell phones, web sites, communication has become one of the single largest challenges to governments in the 21st century. The Board finds that London will be best served by an elected mayor at large, and Board of Control elected at large, and 14 Councillors representing smaller Wards.

The Board in coming to it's decision will divide the municipality according to the City of London Map Attachment 3 but will require the parties to make their best efforts to amend it to capture the real successes Mr. Sancton identified in the "Imagine London" map as set out on Attachment 4. The Board is loath to amend the map itself because of the level of detail required. The Board requests that the City staff (including Mr. Sancton) and the applicants (Mr. Trosow) work together collaboratively to complete a made in London solution based on Attachments "3" and "4".

In coming to this decision the Board is recognizing those communities where the applicants demonstrated strong “communities of interest”. For reasons already highlighted in the testimony and repeated in this decision, the Board is satisfied that a larger community interest is served by changing to a one Councillor Ward system.

Finally, the Board is satisfied that there is widespread support for this change. The Board concludes this from the ballot question results, the history of governance in London, the examination of alternatives London Council proceeded on in 2005, the vote in 2005 at City Council, and the substantial evidence that the Board heard at this hearing including Mr. Sancton’s.

As Mr. Sancton stated in his evidence, it is not possible to achieve perfection with a system that has conflicting criteria and requires many trade-offs. One of the residents at the public evening session put it a little differently. He said that he was not looking for perfection, only a system that was a little fairer.

The Board will set aside one day in mid-December to hear any outstanding unresolved issues. The Board caseworker will be in touch with the Parties to arrange a date. On that day the Board does not intend to hear a repetition of minute details of “communities of interest” with respect to every Ward. The Board is hopeful that the parties will advise it in advance of that date that there are no issues outstanding, that a Ward map has been agreed upon together with a draft Order so that the additional hearing day is unnecessary. The Board is confident that the common passion for London shown by all at this hearing, together with the Parties obvious knowledge of London, their creativity and commitment will result in a Ward boundary map all Londoner’s will be proud of.

“D. L. Gates”

D. L. GATES
MEMBER

Attachments 1 – 4 with original.