

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE MUNICIPAL GOVERNMENT ACT



- and -

IN THE MATTER OF AN APPLICATION by the **MUNICIPALITY OF THE DISTRICT OF LUNENBURG** to alter the number of councillors and the boundaries of polling districts

BEFORE: Murray E. Doehler, CPA, CA, P.Eng., Member

APPLICANT: **MUNICIPALITY OF THE DISTRICT OF LUNENBURG**
Jeff A. Merrill, Director of Planning & Development

HEARING DATE: September 29, 2015

DECISION DATE: **October 21, 2015**

DECISION: **The Application is approved.**

I INTRODUCTION

[1] The *Municipal Government Act*, S.N.S. 1998, c. 18 (“MGA”) requires the council of every municipality to conduct a study and make an application to the Nova Scotia Utility and Review Board (“Board”) to confirm or alter the number of councillors and the boundaries of the polling districts. Section 369 states:

369 (1) In the year 1999, and in the years 2006 and every eighth year thereafter the council shall conduct a study of the number and boundaries of polling districts in the municipality, their fairness and reasonableness and the number of councillors.

(2) After the study is completed, and before the end of the year in which the study was conducted, the council shall apply to the Board to confirm or to alter the number and boundaries of polling districts and the number of councillors.

[2] The Municipality of the District of Lunenburg (“Municipality”) applied to the Board to reduce the number of councillors to 10, and further, to alter the boundaries of the polling districts.

[3] The Notice of Hearing was advertised in the LighthouseNOW Log on September 3 and 10, 2015, and The Progress Bulletin on September 2 and 9, 2015. The Notice invited members of the public to advise the Board of their comments in advance of the hearing. The Board did not receive any objections or letters of support. The hearing was held at Municipal Council Chambers at 210 Aberdeen Road, Bridgewater, Nova Scotia, on September 29, 2015. A number of municipal councillors and staff were present during the hearing.

[4] Jeff Merrill, Director of Planning & Development and Melissa Bonin, Planning Technician, presented the Application on behalf of the Municipality. There are presently 12 councillors elected from 12 polling districts. The population of the Municipality according to the 2011 Census is 25,118, showing a slight reduction from the 2006 Census.

[5] Table 1 sets out the number of eligible electors contained in each polling district in the last municipal election held in October 2012:

Table 1 Polling Districts				
Polling District	# of Electors	% of Total Electors	Variation from Avg. Number of Electors	
			%	#
1	1976	9.5%	13.9%	241
2	1803	8.7%	3.9%	68
3	1485	7.1%	-14.4%	-250
4	1592	7.6%	-8.2%	-143
5	1726	8.3%	-0.5%	-9
6	2014	9.7%	16.1%	279
7	1553	7.5%	-10.5%	-182
8	1839	8.8%	6.0%	104
9	1589	7.6%	-8.4%	-146
10	1875	9.0%	8.1%	140
11	1619	7.8%	-6.7%	-116
12	1753	8.4%	1.0%	18

Total number of electors: 20,824
 Number of councillors: 12
 Average number of electors per councillor: 1,735

[6] Table 2 gives some of the statistical information which was included in the application. This Table sets out the estimated number of eligible electors contained in each polling district, based on the 10 polling districts proposed in the application:

Table 2 Proposed Polling Districts				
Polling District	Proposed # of Electors	% of Total Electors	Variation from Avg. Number of Electors	
			%	#
1	1960	9.4%	-5.9%	-123
2	2173	10.4%	4.3%	90
3	1982	9.5%	-4.8%	-101
4	2165	10.4%	3.9%	82
5	2044	9.8%	-1.9%	-39
6	1953	9.4%	-6.2%	-130
7	2121	10.2%	1.8%	38
8	2094	10.1%	0.5%	11
9	2215	10.6%	6.3%	132
10	2124	10.2%	2.0%	41

Total number of electors: 20,831
 Number of councillors: 12
 Average number of electors per councillor: 2,083

II EVIDENCE

1. Application

[7] The following reasons were outlined in the Application in support of reducing the number of councillors and altering the boundaries of the polling districts:

i) Size of Council

- Council heard clearly from the survey that the majority (75.4%) of respondents wished to see a reduction in the size of Council;
- Council was concerned that 8 Councillors was too drastic of a change – in the size of council survey results the difference in percentage for 8 vs 10 councillors were extremely close, 26.06% and 25.48% respectively;
- A reduction from 12 to 8 councillors represents a loss of 1/3 of all councillors, this is a significant change from the last boundary review where public input was to keep council size the same;
- MODL has a large geographic area and service to residents from Councillors may decrease if the number was reduced further;
- A reduction addresses public perception that there are too many councillors in Lunenburg County;
- Reducing the size of council would likely provide the opportunity to streamline decision-making:
 - Research suggests that smaller groups can more effectively make decisions; and,
 - the need for sub and standing committees would be reduced.
- marginal reduction in costs due to fewer councillor salaries, expenses & staff support to Council members; and,
- a reduction may improve the ability of council to work regionally.

ii) Polling District Boundaries

A reduction in the size of council requires a reduction in the number of polling districts as the Municipal Government Act [MGA s. 10(2)] states that “one councillor shall be elected for each polling district in a county or district municipality...”. A reduction from 12 polling districts to 10 required completely redrawing the polling districts.

Changing Council District Boundaries is a dynamic process in that changes to one district have a ripple effect across several districts. In determining the polling district boundaries, Council had regard for the guidance given by the Nova Scotia Utility and Review Board in the Board’s decision dated February 13, 2004, Re Halifax Regional Municipality, [2004] NSUARB 11. More specifically Council ensured that all proposed Districts:

- A) Had a variance for relative voter parity of + or – 10 percent from the average number of voters per district.
- B) Considered communities of interest and geography (please refer to Table 4), travel patterns and natural barriers to travel patterns. Where possible community boundaries were not divided, see Schedule K Community Boundaries map. Fire service boundaries (Schedule I) and elementary school boundaries (Schedule J) influenced the polling district boundaries. Areas with land use planning were not divided by the polling district boundaries (Schedule L.)

- C) Were derived based upon the best voter data available to the Municipality of the District of Lunenburg, being the voter age population data from the 2011 Statistics Canada census.
- D) Were delineated such that growth areas have a lower/negative voter parity, to accommodate future growth; and areas of little to no growth have a higher/positive variance so that decline could be accommodated.

Growth areas were determined using the Municipality's building permit data for new residential dwellings constructed. New Residential Dwellings are an indicator of growth and population increase. The Growth data, displayed in map form, is contained in Schedule G.

- E) Were derived with consideration of the public input received during the consultation process. The Public Consultation Process followed by Council is described the Staff report dated May 4, 2015 RE: Electoral Boundary Feedback, Schedule O.

[Exhibit L-1, pp. 10-12]

2. Process and Public Consultation

[8] On March 11, 2014, Council appointed four Councillors (increased to five on December 9, 2014) to a Boundary Review Committee. The Boundary Review Committee met extensively during the whole review period providing recommendations to Council on process and conclusions throughout. At key times Council discussed progress and provided input and direction to the Boundary Review Committee. There was healthy debate about the direction as evidenced by the notes on the points of discussion and split votes.

[9] The Boundary Review Committee, following the direction from Council, followed a two step process. Firstly, they considered the size of Council, and then determined the polling districts boundaries. In all cases extensive public consultation was undertaken.

(i) Size of Council

[10] A survey on size of Council was developed and sent on August 8, 2014, to all households in a bulk mail-out through Canada Post. As well, the survey was placed on the Municipality's website between July 28, 2014, and September 2, 2014. Four cash prizes were offered as an incentive to all electors to complete the survey.

[11] Public meetings to explain the background and the process were held in two different parts of the Municipality on August 13 and 21, 2014. Of the 2,190 surveys which were returned, 2,068 were considered to be from eligible voters in the Municipality.

[12] The survey results were analyzed and discussed by the Boundary Review Committee who recommended that the Council size be set at eight. Council discussed the recommendation and, by majority vote, concluded that the Council size should be set at 10 (plus a Mayor). This motion was reconsidered and upheld at the next Council meeting on October 14, 2014.

(ii) Polling Districts Boundaries

[13] An on-line survey was developed to get feedback on proposed polling districts. The survey, was made available on October 29, 2014, and closed on November 19, 2014. Its availability, and the notice of a public meeting on November 17, 2014, was advertised in the Progress Bulletin, the LighthouseNOW Log and the Municipality's website. In addition, it was sent to 177 subscribers of the Planning Department's e-mail and made available at the public meeting. Maps were displayed in the lobby of the municipal building and the galleria of the Lunenburg County Lifestyle Centre.

[14] The 196 survey responses were analyzed and discussed by the Boundary Review Committee and Council. As there was significant disagreement on the proposed

polling districts Council asked for, and received, Board approval to extend the filing of the Application.

[15] The Boundary Review Committee developed six possible polling district map scenarios. From a workshop session held with all of Council, three options were selected. These three options were approved by Council on March 3, 2015, to be presented to the public. Six public meetings, which were well attended, were held throughout the Municipality in April, 2015. In addition, 28 feedback stations were set up across the Municipality in fire halls, community centres and recreation facilities. The feedback form was also made available on the website from March 17, 2015, to April 27, 2015. Of the 574 feedback forms received, 524 were considered to be eligible for consideration.

[16] An analysis of the feedback was discussed at the Boundary Review Committee and, subsequently, by Council. Council agreed, by a majority vote, on the tentative polling district boundaries on May 12, 2015, subject to a public hearing on the matter. Following the public hearing on June 17, 2015, Council immediately held a Special Council meeting at which the Application was approved.

[17] The Board notes that of all the many Council motions on the process and recommendations, the approval of the Application was the only one that received unanimous consent.

3. Presentation

[18] Tom Lockwood from Oakland addressed the hearing, commenting upon the process followed and the eventual resolution. He observed that it was a taxing process

for all concerned and took a long time for the community (as ultimately represented by Council) to get the boundaries correct. He fully supports the Application and believes its final acceptance by the Board can start a “healing” process for the community.

III FINDINGS

[19] Section 368(4) of the *Municipal Government Act* sets out the criteria for the Board:

368(4) In determining the number and boundaries of polling districts the Board shall consider number of electors, relative parity of voting power, population density, community of interest and geographic size.

[20] In 2004, the Board determined that the target variance for relative parity of voting power shall be $\pm 10\%$ from the average number of electors per polling district. Any variance in excess of $\pm 10\%$ must be justified in writing. The larger the proposed variance, the greater the burden on the municipal unit to justify the higher variance from the average number of electors.

[21] While the Board will permit variances up to $\pm 25\%$, the outer limits of this range should only apply in exceptional cases, where the affected municipality provides detailed written reasons showing that population density, community of interest, geographic size, or other factors, clearly justify the necessity of an increased variance within a polling district. In most cases, however, the Board expects municipalities to meet a target variance of the number of electors in each polling district which is within a $\pm 10\%$ range of the average.

[22] There has been no objection made to the application.

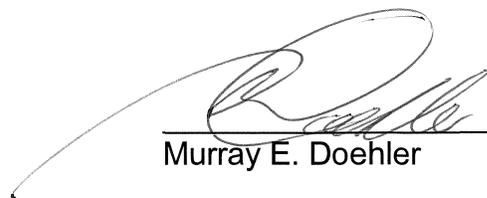
[23] All proposed polling districts fall within the $\pm 10\%$ guideline applied by the Board. The Board accepts the reasons advanced by the Municipality.

[24] The Board reiterates the comments made at the conclusion of the hearing and commends the Municipality on the extensive consultation and study process followed. As outlined in this Decision, it can be seen that both staff and Council worked diligently to ensure the views of the public were properly solicited and considered. The determination of polling district boundaries, while accomplishing relative parity of voting power, was balanced with the desire of the public to maintain communities of interest.

[25] As stated at the end of the hearing, the Board approves the application. The number of polling districts is set at 10, each electing one councillor. The Board also approves the proposed polling district boundaries.

[26] The Municipality will prepare new descriptions for the polling districts. An Order will issue after the Board receives the new descriptions for the polling districts.

DATED at Halifax, Nova Scotia, this 21st day of October, 2015.


Murray E. Doehler