

DECISION

**2023 NSUARB 2
M10819**

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE MUNICIPAL GOVERNMENT ACT

- and -

IN THE MATTER OF AN APPLICATION by the **TOWN OF OXFORD** to confirm the number of councillors

BEFORE: Julia E. Clark, LL.B, Member

APPLICANT: **TOWN OF OXFORD**
Linda Cloney, Chief Administrative Officer

HEARING DATE: December 7, 2022

DECISION DATE: **January 4, 2023**

DECISION: **Application is approved.
Number of councillors confirmed at six.**

SUMMARY

[1] The *Municipal Government Act* requires every municipal council to conduct a study and apply to the Nova Scotia Utility and Review Board to confirm or alter the number of councillors and the boundaries of the polling districts.

[2] The Town of Oxford applied to confirm the number of councillors. The Board approves the application and sets the number of councillors at six, elected at large.

BACKGROUND

[3] The *Municipal Government Act*, S.N.S. 1998, c. 18 (*Act*) requires every municipal council to conduct a study and apply to the Nova Scotia Utility and Review 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.

[4] The Town of Oxford (Town) applied to the Board to confirm the number of councillors. The Notice of Hearing was advertised in *The Cumberland Wire* on November 16th and 23rd, 2022. The Notice invited members of the public to provide comments to the Board before the hearing, or to request to speak at the public hearing. The Board did not receive any objections, letters of support, or requests to speak. The hearing was held on December 7, 2022, in the Town's Council Chambers at 105 Lower Main Street, Oxford. No members of the public were present during the hearing; however, Mayor Gregory Henley was present during the hearing, along with staff.

[5] Linda Cloney, Chief Administrative Officer (CAO), presented the application for the Town. In addition to the Mayor, six councillors are elected at large. One of the councillors serves as Deputy Mayor. The geographic size of the Town is 10.76 square kilometers. The 2021 Census showed a population of 1,170, an increase of 19 from the 2011 Census as stated in the last municipal boundary decision for the Town [2014 NSUARB 214]. Ms. Cloney and Mayor Henley indicated their belief that the Census underestimated the Town's current population given the recent influx of new residents. The number of electors for the last municipal election, in October 2020, was 931.

[6] The reasons given in the application for confirming the existing number of councillors were:

- The main reason is due to making decisions ... that there would be six different people to make the best decisions for the Town of Oxford.
- Worried that if there was a small number [then] at times of a debate it may be one sided and not enough consideration would be had.

[7] Town staff formed a Municipal Boundary Review Committee made up of staff and councillors. Members of the public were invited, but none participated. The Committee undertook a public survey about the review, based, in part, on other municipalities' boundary review surveys. The survey was available online and physical copies were available at the Town offices. In total, Council received 99 responses to the survey, and the Committee was satisfied with the number of the responses. The results of the survey were mixed, with 47% of respondents indicating the Town currently had the right number of councillors, 30.3% favouring fewer councillors, and 20.2% unsure.

[8] The Town held a public meeting on October 10, 2022, which was advertised two weeks prior to the meeting date through the usual forms of advertising on the Town bulletin board, website and social media. Council meetings are open to the public, but no

members of the public attended the meeting. Staff made a presentation about the outcome of the survey but chose not to provide a formal recommendation to Council given the mixed result. Because councillors wanted additional time to review the matter, the decision was held over until the following Council meeting on October 17, 2022, which was also advertised and open to the public. At that meeting, Council debated the issue and ultimately passed a resolution to apply to the Board to confirm the number of councillors at six. The resolution did not have unanimous support.

[9] Ms. Cloney said that most councillors agreed that maintaining a greater number of councillors would allow for more diversity and representation in decision-making. Those who preferred to reduce the number felt that it was too difficult to attract enough candidates in the election. The Town needs to hold a by-election to fill two vacant seats and has not yet received any nominations. One consideration for the councillors advocating a reduction in council size was that an increase in compensation could attract more candidates. The Mayor and CAO considered there would be no material cost savings from a reduction in Council size because the Town would redistribute the councillors' compensation budget among remaining councillors.

[10] There was no support expressed among councillors or survey responses for dividing the Town into polling districts. Ms. Cloney said that adopting a ward or polling district format would provide no benefit because of the Town's small geographic size and number of electors. Town staff filed a map with the Board, showing the Town boundaries. Mayor Henley described a historic societal division between the North and South sides of the Town. He said that a ward system in Oxford is not warranted, and a division along

the natural North/South boundary could be disadvantageous to the social cohesion of the town. Under the current model, councillors work together to serve the entire Town.

[11] The Town now operates under a CAO model, and Council's role is progressing to primarily one of policy governance. Ms. Cloney stated that Council is in a transition period after moving from a Town Clerk to a CAO model. Although there is some degree of ongoing day-to-day involvement of councillors, as would be expected in a smaller town, the Board heard that the role of the CAO is respected.

[12] In addition to Council meetings, councillors are involved in multiple regional and other weekly meetings. Since the CAO was instated, the workload for councillors has decreased because there are fewer committees to attend. Neither Mayor Henley nor Ms. Cloney felt that a reduction in councillors would make it particularly difficult for Council or its committees to maintain quorum. They indicated councillors are rarely absent, despite all the councillors having other full-time or part-time employment.

[13] The Mayor and the CAO testified that they had received no comments from the public after the publication of the Board's Notice of Hearing. Ms. Cloney considered that a reduction in council size was not warranted, as Council is working well.

FINDINGS

[14] Section 368(5) of the *Act* sets out the criteria for the Board to consider:

368 (5) In determining the number of councillors for a town, the Board shall consider the population and geographic size of the town.

[15] For the purposes of the *Act*, the position of mayor is not included in the number of councillors and, accordingly, does not fall within the scope of this review conducted by the Board.

[16] There were no objections to the Town's application to confirm six councillors. The Board is satisfied that Council undertook a reasonable public consultation process and reviewed Oxford's size and population against other small towns in the province. The size of the Town and the number of councillors is comparable to other small towns in the province, though some similarly populated towns have four councillors. The Board accepts the Town's reasons for confirming the existing number of councillors, to be elected at large. The Board approves the application.

[17] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 4th day of January, 2023.



Julia E. Clark