

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 COUNTY OF KINGS** to confirm the number of councillors and to alter the boundaries of polling districts

BEFORE: Roland A. Deveau, K.C., Vice Chair
Richard J. Melanson, LL.B., Member
M. Kathleen McManus, K.C., Member

APPLICANT: **MUNICIPALITY OF THE COUNTY OF KINGS**

HEARING DATE: April 13, 2023

DECISION DATE: **May 12, 2023**

DECISION: **Application approved.**

I 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 Municipality of the County of Kings applied to confirm the number of councillors and to alter the boundaries of the polling districts. The Board approves the application and sets the number of councillors and polling districts at nine and approves the proposed changes to the polling district boundaries.

II BACKGROUND

[3] The *Municipal Government Act*, S.N.S. 1998, c. 18, 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 Municipality of the County of Kings (Municipality) applied to the Board to confirm the present number of councillors at nine, and to alter the boundaries of the polling districts.

[5] The Notice of Hearing was advertised in the Valley Journal Advertiser on February 24, 2023, and March 16, 2023. The Notice invited members of the public to provide written comments to the Board before the hearing, or to request to speak at the

public hearing. The Board did not receive any letters of comment. One member of the public requested to speak. The hearing was held at Municipal Council Chambers at Coldbrook, Nova Scotia, on April 13, 2023.

[6] Dan Hagan, Strategic Projects Specialist, presented the application for the Municipality. Mr. Hagan was accompanied by Scott Conrod, Chief Administrative Officer, Janny Postema, Municipal Clerk, and Holly Sanford, GIS Technician. There are presently nine councillors elected from nine polling districts. The population of the Municipality according to the 2021 Census is 48,712, an increase of 957 since the 2011 Census.

[7] Table 1 sets out the number of eligible electors in each polling district in the last municipal election held in October 2020:

Polling District	Number of Electors	Variation from Avg. Number of Electors	
		#	%
1	4,404	140	3.28
2	4,674	410	9.61
3	4,436	172	4.03
4	4,367	103	2.41
5	3,993	-271	-6.36
6	4,176	-88	-2.07
7	4,193	-71	-1.67
8	4,150	-114	-2.68
9	3,984	-280	-6.57

Total number of electors: 38,377
Number of councillors: 9
Average number of electors per councillor: 4,264

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

Polling District	Proposed Electors	Variation from Avg. Number of Electors	
		#	%
1	4,621	254	5.82
2	4,579	212	4.86
3	4,570	203	4.66
4	4,441	74	1.7
5	4,193	-174	-3.98
6	4,381	14	0.33
7	4,147	-220	-5.03
8	4,156	-211	-4.82
9	4,212	-155	-3.54

Total number of electors: 39,300
 Number of councillors: 9
 Average number of electors per councillor: 4,367

[9] The Municipality assembled a seven-member team to conduct the municipal boundary review, led by Ms. Postema. The Municipality undertook an extensive consultation process to seek public input regarding the size of Council as well as the boundaries of polling districts. Five Public Engagement Sessions were held as follows:

- September 27, 2022 Municipal Office, Coldbrook, NS
- October 3, 2022 Municipal Office, Coldbrook, NS
- October 5, 2002 Community Centre, Port Williams, NS
- October 6, 2022 Fire Hall, Kingston, NS
- October 20, 2022 Municipal Office, Coldbrook, NS

[10] The public was invited to all sessions, except for October 3, 2022, which was held for all citizen appointees to Municipal standing committees. Notices for the sessions were advertised in the local newspaper, radio and the Municipality's social media channels and website. Twelve people attended the October 3rd session, and two to six people attended each of the other four sessions. A total of 30 people attended the sessions in person and six attended virtually. Council and staff attendance was not included in those numbers.

[11] An online survey was also available to the public between September 9 and October 21, 2022. A print survey was only available to those members of the public who attended the public sessions. The Board commends the Municipality for the variety of communications methods that it used, but also recognizes not all in our communities are comfortable receiving and providing digital information. In the future, it may be necessary for the Municipality to continue to consider how to best reach those who may not be able to access or provide electronic information.

[12] The Municipality received 301 responses to its online survey. Fifty-two percent of the survey respondents indicated that nine is the appropriate number of councillors for the Municipality. Twenty-four percent of the respondents found the number of councillors was too many and 12% of the respondents stated the number was too low. In responding to the question of whether the current electoral boundaries were appropriate and fair, 38% indicated the boundaries were fair and 21% found them unfair. The remaining 42% of the respondents answered that they were not sure.

[13] Following the Public Engagement Sessions and the online survey, staff considered five scenarios:

- Alternative #1: Status Quo (9 Districts)
- Alternative #2 9 Districts (Version 1)
- Alternative #3 9 Districts (Version 2)
- Alternative #4 8 Districts
- Alternative #5 10 Districts

[14] Mr. Hagan was asked about the differences between the three alternative nine-district versions during the hearing. The nine-district status quo version did not include the various boundary revisions outlined later in this decision. In the status quo version, the communities of Greenwood, Aylesford, and part of Berwick were divided

between different districts. Further, under the status quo, the variation from the average number of electors in District #2 was at the high end of the range at 9.61% (using October 2020 figures).

[15] The main differences between the nine-district alternative versions were in the western and eastern ends of the Municipality. In Alternative #2 (Version 1), Kingston, Greenwood and Canadian Forces Base (CFB) Greenwood were in District #4, while Eastern Kingston and part of Aylesford were in District #5. Further, in the eastern end, Districts #1 and #2 were configured with an East/West orientation. In Alternative #3 (Version 2), Eastern Kingston was brought into District #4 with Kingston and Greenwood, while Aylesford and CFB Greenwood were brought into District #5. The orientation of Districts #1 and #2 was also changed to a North/South configuration, resulting in the Villages of Port Williams and Canning being in two different districts.

[16] In addition to preparing detailed maps and calculating the average number of electors in each polling district for each of the five alternative scenarios, Kings staff also individually scored the five scenarios based on several chosen criteria. The 10 criteria included each of the factors in s. 368(4) of the *Municipal Government Act*, along with the consistency of each alternative with comments received during the public consultation, the consideration of under-represented communities, anticipated population growth, and whether the proposed number and boundaries of polling districts was “appropriate” and “fair”.

[17] The results were tabulated both on an average (mean) and median score basis. In each case, Alternative #3 (9 Districts – Version 2) ranked the highest [3.9/5 (mean) and 4.3/5 (median)], followed by the Status Quo (9 Districts) at 3.0/5 for both the mean and median. The other three scenarios all scored below 3.0 in all rankings.

[18] From the five scenarios developed for discussion purposes, staff recommended to Municipal Council that it adopt Alternative #3 (9 Districts - Version 2). The reasons given by staff to Committee of the Whole on November 10, 2022, for maintaining the same number of councillors and altering the boundaries of the polling districts as outlined in Alternative #3 (9 Districts – Version 2) were:

- Four of the seven villages located within the Municipality to be wholly included within singular Municipal polling districts. Given the larger geographic size of the Village of Cornwallis Square, it was not possible for it to be included in a single municipal polling district due to issues with voter parity and splitting of Communities of Interest. For voter parity reasons, Kingston and Aylesford are combined into one district.
- The present-day Districts 1 and 2 are reorganized along a north-south orientation, rather than an east-west orientation, with the intent of having only one village in each District (in contrast to the current situation with there being two villages in District 1 and none in District 2). The revised scenario has Canning and Centreville within District 1 and Port Williams and North Kentville within District 2. This reorientation also addresses the issue of the historical African Nova Scotian community of Gibson Woods being split between three Districts, with all of the Gibson Woods area being contained within the new District 1. For voter parity purposes, the area of Keddy's Corner was included within new District 3 (from former District 2), with the new western boundary of District 2 generally being the boundary of the Department of National Defence's 5th Canadian Division Support Base Detachment Aldershot.
- Areas around Deep Hollow Road and White Rock Road were moved from current District 7 to a new District 9, and the eastern boundary between Districts 7 and 9 amended to be the community boundary of White Rock and Canaan.
- Current District 6 was expanded through to the Town of Berwick's eastern boundary to produce a more natural divide, taking in lands currently part of District 7. The southern boundary of District 6 was moved slightly to the south into current District 7, to address some voter confusion in this area.
- Districts 4 and 5 were divided along the boundary of the Annapolis River and the boundary of the Village of Kingston and Greenwood. The proposed District 4 would include all of the Village of Kingston and Aylesford along Highway 1, whereas the proposed District 5 would include all of Greenwood and the rural areas to the south (to south of East Dalhousie).
- The proposed District 7 added some land areas previously part of District 5 in order to address voter parity issues.

[Exhibit K-1(ii), Appendix E, PDF p. 281]

[19] Based on comments received from the Committee of the Whole, staff proposed further changes to the boundary between Districts #4 and #5 at the Council meeting of December 6, 2022, as follows:

- The inclusion of all of both the Village of Kingston and Village of Greenwood (except for DND 14-Wing Greenwood) within District 4. For voter parity reasons, Communities of Interest, and allowing for future growth potential, the Villages of Kingston and Greenwood are combined into one district, following village boundaries and the GSAs in the area (currently, the Village of Greenwood is divided between Districts 4 and 5).
- The inclusion of all the Village of Aylesford, DND 14-Wing Greenwood, and the rural areas to the south (to south of East Dalhousie) within District 5 (currently, the Village of Aylesford and DND 14-Wing Greenwood are divided between Districts 4 and 5).

[Exhibit K-1(ii), Appendix E, PDF p. 299]

[20] At the meeting on December 6, 2022, Municipal Council approved the application to the Board to confirm the number of councillors at nine and to alter the boundaries of the polling districts as proposed by staff in the Boundary Review Study (i.e., Alternative #3, 9 Districts – Version 2).

[21] One member of the public requested to speak at the Board's hearing of April 13, 2023. Chris Cann asked why the communities of Hall's Harbour and Baxters Harbour were separated by the boundary between Polling Districts #1 and #3. In his view, there was a community of interest between these two communities, and other communities along the Bay of Fundy shore, like Scots Bay. In response to Board questioning, he confirmed that this area is a tourist destination, which would attract similar interests. However, he supported the Municipality's application otherwise.

III FINDINGS

[22] 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.

[23] 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 more than $\pm 10\%$ 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.

[24] 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.

[25] There were no objections to the application, although, as discussed above, Mr. Cann proposed an alternative boundary. He premised his comments on the need to consider economic development when establishing polling boundaries. As the Board understands it, Mr. Cann was saying that tourism destinations have similar interests when it comes to the nature and scale of development which might impact these areas. He submits it would be beneficial to incorporate this type of common interest into polling district boundaries. While at a conceptual level the Board agrees tourist destination areas

could potentially give rise to communities of interests, it cannot agree with the boundary change proposed by Mr. Cann.

[26] Leaving aside the fact Hall's Harbour is not contiguous to District 1, Ms. Sanford confirmed that Hall's Harbour had approximately 264 electors. If this number of electors was transferred to District 1, that polling district would have 4,885 electors, or 518 electors above the average of 4,367. This translates to a +11.9% variation in voter parity. Given the relatively tight spread in voter parity variances under the Municipality's proposed boundaries, all of which are under the Board's $\pm 10\%$ target variance, Mr. Cann's proposal would create an outlier.

[27] Mr. Cann raised an interesting issue, and the Board appreciates his participation in the hearing. The Board is satisfied that, for the purpose of this application, when balancing potentially competing factors arising from Mr. Cann's proposal, maintaining voter parity variances well within the Board's guidelines is a laudable goal and a primary consideration. Therefore, the boundary between District 1 and District 3 should not be changed to address potentially common issues in tourist destination areas.

[28] All proposed polling districts fall within the $\pm 10\%$ guideline applied by the Board. The Board accepts the Municipality's reasons for altering the polling district boundaries. The proposed changes better reflect communities of interest in various locations, including bringing Gibson Woods, a historical African Nova Scotian community, into one polling district.

[29] The Board commends the Municipality on the extensive consultation and study process followed. Both staff and Council worked diligently to ensure the views of

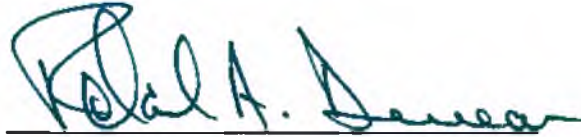
the public were properly solicited and that relative parity of voting power was achieved among the polling districts, while respecting communities of interest.

[30] The Board approves the application. The number of polling districts is set at nine, each electing one councillor. The Board also approves the proposed changes to the polling district boundaries.

[31] The Municipality filed digital maps of the proposed polling district boundaries developed during the public consultation. In recent years, some municipalities and towns have requested to provide the descriptions of its polling districts or wards using digital GIS technology. While the Board is mindful of the benefits of digital mapping over text descriptions, both in terms of cost and efficiency, the important factor to be considered is the subsequent use of any polling district or ward descriptions during the conduct of municipal elections. Regardless of the format which is adopted by a municipality or town, the description must be able to address any inquiry made by electors or municipal election staff during the conduct of municipal elections. Accordingly, it is necessary that the scale of any digital mapping descriptions be capable of being adjusted to respond to any inquiry. In addition to filing a large hard copy map showing all polling districts collectively, the Board also requires the separate filing of individual digital mapping for each polling district or ward. The Board approves the filing of the digital polling district maps by the Municipality, as approved in this Decision. The maps are to reflect the revised boundaries for Districts #4 and #5 approved at the December 6, 2022, Council meeting.

[32] The Municipality will prepare and file new digital maps for the approved polling districts boundaries. An Order will issue after the Board receives the new digital maps.

DATED at Halifax, Nova Scotia, this 12th day of May, 2023.



Roland A. Deveau



Richard J. Melanson



M. Kathleen McManus