

**NOVA SCOTIA UTILITY AND REVIEW BOARD**

**IN THE MATTER OF THE HALIFAX REGIONAL MUNICIPALITY CHARTER AND  
THE MUNICIPAL GOVERNMENT ACT**

**- and -**

**IN THE MATTER OF AN APPLICATION** by the **HALIFAX REGIONAL MUNICIPALITY**  
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  
Jennifer L. Nicholson, CPA, CA, Member

**APPLICANT:** **HALIFAX REGIONAL MUNICIPALITY**  
Karen E. MacDonald, Counsel

**HEARING DATE:** September 7, 2023

**UNDERTAKINGS:** September 25, 2023

**DECISION DATE:** **December 21, 2023**

**DECISION:** Application approved. The number of councillors is confirmed at 16, subject to polling district boundary revisions directed by the Board.

I CERTIFY THAT THE WITHIN IS A TRUE  
AND CORRECT COPY OF THE ORIGINAL

DATED THIS 21st DAY OF December, 2023



Lisa A. Wallace, Clerk of the Board  
Nova Scotia Utility and Review Board

## TABLE OF CONTENTS

I	SUMMARY .....	3
II	BACKGROUND .....	3
III	FINDINGS .....	10
1.	Portion of Prospect Road in the vicinity of Exhibition Park/Ragged Lake - proposed Districts 12 and 13 .....	12
a)	Findings .....	21
2.	Blue Mountain - Birch Cove Lakes – proposed Districts 10, 12 and 16 .....	25
a)	Findings .....	27
3.	Long Lake - proposed Districts 9 and 11 .....	28
a)	Findings .....	30
4.	Pleasant Street to Woodside, Dartmouth – proposed Districts 3 and 5 .....	31
a)	Findings .....	35
IV	CONCLUSION.....	38

## I SUMMARY

[1] The *Halifax Regional Municipality Charter* incorporates the part of the *Municipal Government Act* that 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] Halifax Regional Municipality (HRM) applied to confirm the number of councillors and to alter the boundaries of the polling districts. The Board approves the application to maintain the number of councillors and polling districts at 16. The Board also approves the proposed changes to the polling district boundaries, except the following revisions directed by the Board:

- maintaining all of Prospect Road in proposed District 13, including the portion in the vicinity of Exhibition Park/Ragged Lake;
- amending the boundaries of Districts 10, 12 and 16 in the area of Blue Mountain - Birch Cove Lakes;
- extending the western boundary of proposed District 11 to include the eastern half of Long Lake; and
- extending the southeasterly boundary of proposed District 5 up to Woodside to include the area south of Pleasant Street along the Harbour.

## 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] HRM applied to the Board to confirm the present number of councillors at 16, and to alter the boundaries of the polling districts.

[5] This hearing was originally scheduled for May 31, 2023, but was adjourned because of the wildfires in HRM. Our thoughts remain with all those displaced and affected by the fires and the first responders. The hearing was rescheduled to Thursday, September 7, 2023, including an evening session. The Notice of Hearing was advertised in the Chronicle Herald on March 15 and 18, 2023. The amended Notice of Hearing was posted on the Board and HRM websites and on their social media channels. 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. As described in greater detail later in this decision, the Board received many letters of comment and requests to speak at the evening session. The hearing and evening session were held on September 7, 2023, in the Board's offices in Halifax, Nova Scotia. The hearing and evening session were also broadcast live on the Board's website, which could be accessed by the public.

[6] Two witnesses were called to present the application: Iain MacLean, Municipal Clerk, and Leah Perrin, MCIP, LPP, Manager of Regional Planning. Ms. Perrin was qualified by the Board as an expert in regional planning, able to provide opinion evidence on communities of interest, population density, and anticipated population growth in HRM. These two witnesses were also accompanied by Melanie Parker, GIS Analyst, who was able to simultaneously develop mapping options with related elector numbers during questioning by the Board.

[7] There are presently 16 councillors elected from 16 polling districts. The Municipality's population, according to the 2021 Census, is 440,071, which is a material increase of 49,975 since the 2011 Census. Since the 2020 municipal election, the average number of electors per district has increased from 20,140 to 23,263.

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

<b>Table 1</b> <b>Polling Districts</b>			
Polling District	Number of Electors	Variation from Avg. Number of Electors	
		#	%
1	16,686	-3,454	-17.2%
2	20,609	469	2.3%
3	22,851	2,711	13.5%
4	19,709	-431	-2%
5	22,292	2,152	10.6%
6	20,142	2	0%
7	18,512	-1,628	-8.1%
8	21,100	960	4.8%
9	21,511	1,371	6.8%
10	19,154	-986	-4.9%
11	20,844	704	3.5%
12	20,968	828	4.1%
13	19,845	-295	-1.5%
14	18,012	-2,128	-10.6%
15	16,747	-3,393	-16.9%
16	23,250	3,110	15.4%

Total number of electors:	322,232
Number of councillors:	16
Average number of electors per councillor:	20,140

[9] Table 2 gives some of the statistical information included in the application. This Table sets out the estimated number of eligible electors in each polling district, based on the recent 2021 Census and the 16 polling districts proposed in the application:

<b>Table 2 Proposed Polling Districts</b>			
<b>Polling District</b>	<b>Proposed Electors</b>	<b>Variation from Avg. Number of Electors</b>	
		<b>#</b>	<b>%</b>
1	17,702	-5,561	-23.9%
2	20,726	-2,537	-10.9%
3	25,326	2,063	8.9%
4	22,887	-376	-1.6%
5	25,684	2,421	10.4%
6	23,006	-257	-1.1%
7	23,716	453	1.9%
8	21,655	-1,608	-6.9%
9	23,087	-176	-0.8%
10	22,950	-313	-1.3%
11	24,258	995	4.3%
12	25,729	2,466	10.6%
13	20,354	-2,909	-12.5%
14	23,148	-115	-0.5%
15	24,943	1,680	7.2%
16	27,033	3,770	16.2%

Total number of electors: 372,204  
Number of councillors: 16  
Average number of electors per councillor: 23,263

[10] HRM undertook an extensive consultation process to seek public input about the size and style of municipal government as well as the boundaries of polling districts. On December 14, 2021, Regional Council initiated a two-phase process for its 2022 district boundary review. Phase 1 was to determine the size of Council and its governance structure, and Phase 2 was to set the specific district boundaries. Council designated its Executive Standing Committee to undertake Phase 1 and directed that the Chief Administrative Office return to Council with an Administrative Order to establish a committee of experts to conduct Phase 2.

[11] For Phase 1, the Executive Standing Committee's role included advising on the strengths, challenges and opportunities of the existing governance model for Council; directing the public engagement activities; and providing a recommendation to Regional Council, based on public consultation, on the number of polling districts. At its meeting of February 28, 2022, the Executive Standing Committee had before it a staff report outlining

HRM's current governance structure, including a discussion of the role of community councils, standing committees, and advisory committees. The report also discussed the legislative framework of the district boundary review, contained a jurisdictional scan of comparable Canadian municipalities, and outlined a proposed public engagement process and timeline for Phase 1. At its meeting of March 28, 2022, the Executive Standing Committee approved draft survey questions and a public engagement timeline for Phase 1.

[12] HRM hired Narrative Research to develop the surveys and assist with the collection and analysis of data from the public engagement activities for Phases 1 and 2. As part of Phase 1, Narrative Research also conducted interviews with members of Council.

[13] The Phase 1 public consultation consisted of an on-line survey, an ability to submit correspondence to the Executive Standing Committee, and in-person sessions at community council meetings. The on-line survey was conducted between April 6 and April 25, 2022, with 1,199 responses. Four additional pieces of correspondence were also received. The public engagement sessions included a public information presentation at each of HRM's community councils in April 2022. No members of the public registered to address any of the following community council meetings:

- Harbour East Marine Drive Community Council on April 20, 2022
- Halifax and West Community Council on April 19, 2022
- North West Community Council on April 25, 2022
- Halifax Regional Centre Community Council on April 28, 2022

[14] Following its review of a staff report summarizing the results of the public consultation process, the Executive Standing Committee recommended that Regional

Council confirm the number of polling districts and councillors at 16 and direct this be applied to Phase 2 of the district boundary review. At its meeting of June 14, 2022, Regional Council approved this recommendation. This marked the starting point for Phase 2.

[15] In February 2022, Regional Council adopted an Administrative Order establishing a special advisory committee comprised of residents, called the District Boundary Resident Review Panel (DBRR Panel), to advise Council on the boundaries of the municipal electoral districts as part of Phase 2 of Council's process to develop its application to the Board. The DBRR Panel's duties were described in the Administrative Order as leading the public engagement, analyzing the responses and themes from the public engagement, and recommending adjustments to the current district boundaries, considering the direction from Council in Phase 1, the results of the public engagement, and the objectives in s. 238(4) of the *Municipal Government Act*.

[16] The DBRR Panel established two working groups to assist it in its work. One working group, the Public Engagement Planning Group, worked with Narrative Research and provided a Public Engagement Plan and Schedule to the Panel. The second working group, the Mapping Working Group, met several times and reviewed the current district boundaries with elector counts, identified problem districts, discussed growth areas and recommended some adjustments.

[17] In September 2022, the DBRR Panel reviewed a staff report that included the Mapping Working Group, recommendation for a mapping option for Phase 2 public engagement activities. The Panel adopted revisions to the mapping option for use in its public engagement process and approved the revised public engagement schedule, survey, and presentation parameters for Phase 2.



[18] The Phase 2 public consultation process included an on-line survey, feedback by email and public meetings with a virtual engagement option. The on-line survey was conducted from October 11 to October 25, 2022, with 1,321 responses. In addition, 71 email submissions were received by the Municipal Clerk's Office. Narrative Research facilitated seven in-person sessions with a virtual engagement option held through October and November 2022 in HRM's rural, urban and suburban communities:

- Musquodoboit Harbour on October 11, 2022
- Lucasville on October 12, 2022
- North Preston on October 13, 2022
- Spryfield on October 19, 2022
- Lower Sackville on October 20, 2022
- Middle Musquodoboit on October 20, 2022
- Cherry Brook on November 9, 2022

[19] In addition, three community councils held in-person public engagement sessions:

- Halifax and West Community Council on October 12, 2022
- North West Community Council on October 17, 2022
- Harbour East-Marine Drive Community Council on October 24, 2022

[20] After receiving more written comments from the public, the DBRR Panel met a few times in November 2022. At its meeting of November 23, 2022, the Panel discussed a Staff Report dated November 17, 2022, and a Supplementary Staff Report dated November 23, 2022. It then passed a motion that the Executive Standing Committee recommend that Regional Council approve the proposed polling district boundaries as

set out in Attachments 1 and 3 of the staff report dated November 23, 2022, for submission to the Nova Scotia Utility and Review Board. At its meeting of November 28, 2022, the Executive Standing Committee endorsed the recommendation.

[21] At its meeting of December 13, 2022, Regional Council approved the proposed polling district boundaries in Attachments 1 and 3 of the Staff Report for submission to the Board.

### 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] Another factor in s. 368(4) of the *Act* is “community of interest”. The Board elaborated on this factor in its 2004 decision about HRM’s municipal boundary application:

[86] With respect to community of interest, the Board finds the criteria that should be taken into account include the following:

1. history;
2. recreational issues;
3. tax rates, i.e., area rates;
4. services (water and sewer);
5. fire protection service areas;
6. traffic infrastructure and pattern;
7. planning boundaries;
8. language and ethnic origin;
9. school districts;
10. shopping patterns and business centres.

This list is not meant to be exhaustive.

[87] The Board recognizes that several community of interest factors may overlap, meaning that the final delineation of a boundary must strike a compromise or accommodation among a number of factors. Further, communities of interest may change with the passage of time. Additionally, certain parts of HRM are experiencing faster growth rates compared to other parts of HRM, where neighbourhoods remain more stagnant. ...

[Board Decision, 2004 NSUARB 11, paras. 86-87]

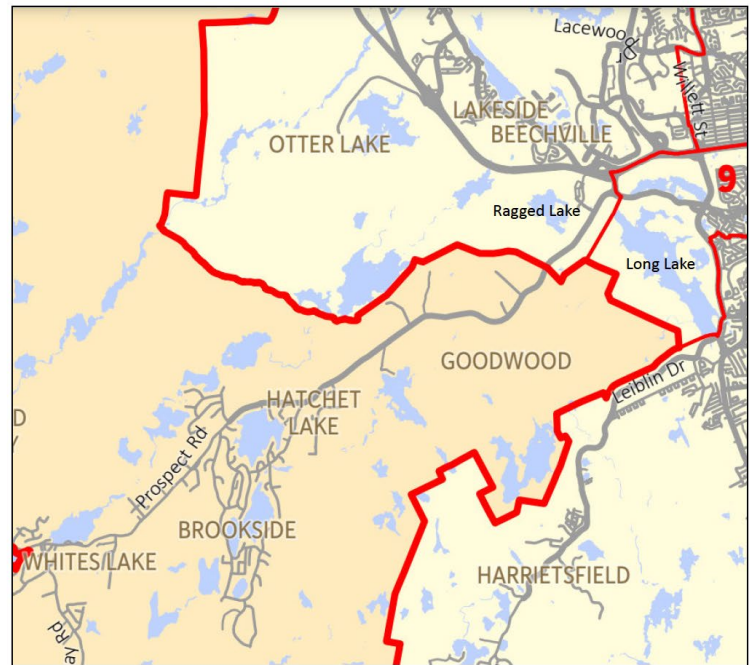
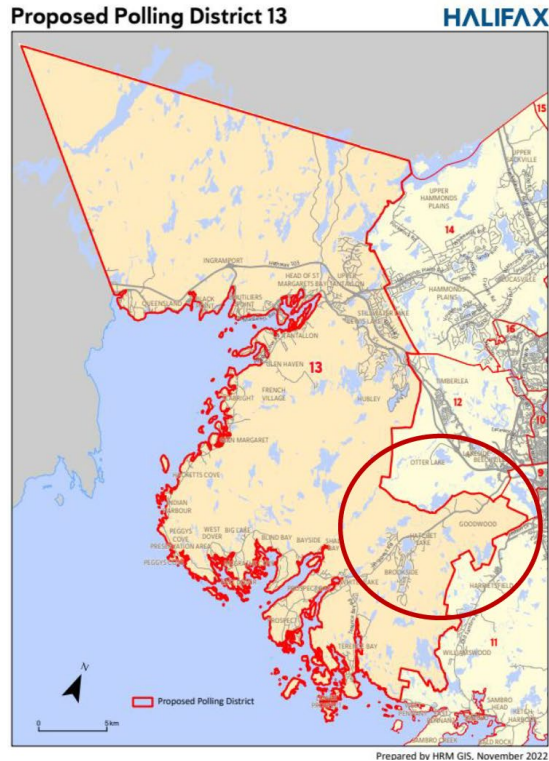
[26] As was noted in the *2004 HRM Municipal Boundary* decision, “there is virtually an unlimited number of communities of interest and it is unlikely that any polling district plan can recognize the boundaries of all communities of interest”. Thus, there will likely never be an optimal or perfect configuration of polling district boundaries recognizing all communities of interest in a municipality, especially where this factor is to be balanced with other factors mentioned in the *Act*, like geographic size, population density, the number of electors, and relative parity of voting power.

[27] HRM’s application contained over 2,000 pages, including the research documentation, public engagement results, reports and minutes of the various proceedings held by HRM in the district review process. In addition, the Board received over 125 letters of comment and 20 people registered to speak at the evening session.

There was no opposition to a significant part of HRM's application, including the application to maintain the existing size of Regional Council at 16 polling districts. The Board will review the evidence and public comments about the parts of the application that were opposed by members of the public, which the Board will examine, in turn.

**1. Portion of Prospect Road in the vicinity of Exhibition Park/Ragged Lake - proposed Districts 12 and 13**

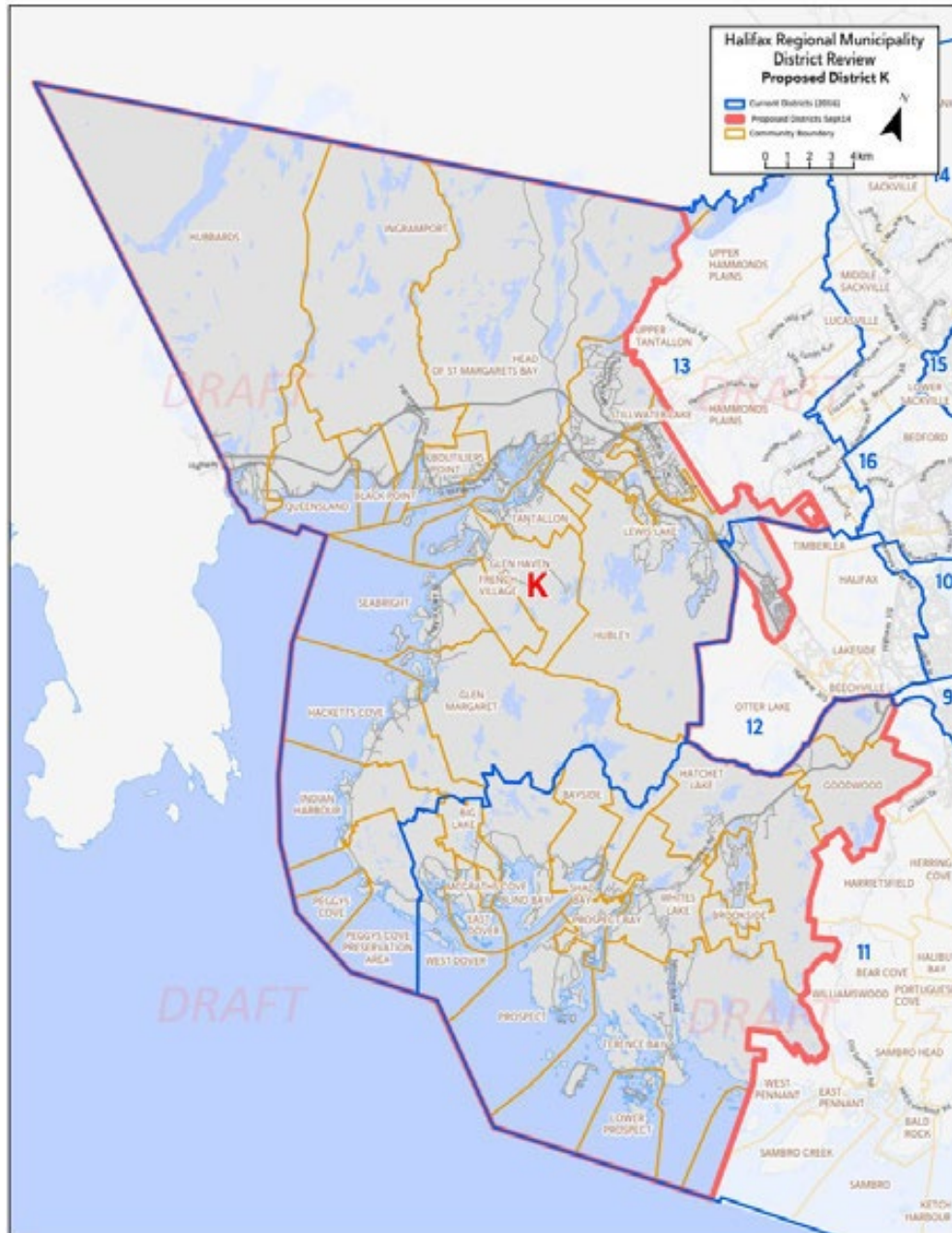
[28] The proposed boundary between Districts 12 and 13 generated the most public input in this matter. In particular, lands on a portion of Prospect Road were included in the proposed District 12 rather than District 13. This portion of Prospect Road extends from Evergreen Place to the St. Margarets Bay Road. It includes the entrance to Prospect Road from the St. Margarets Bay Road. This boundary was opposed by a large group of residents who live further south on Prospect Road in communities such as Prospect Bay, Shad Bay, Whites Lake, Brookside, Bayside, Goodwood, Hatchett Lake, McDonald Lake, and Terrance Bay (Prospect Communities). The area of contention is shown below:



Proposed Polling District 13 does not extend to St. Margarets Bay Road and excludes Long Lake and Ragged Lake

[Exhibit H-1(iv), pdf p. 509]

[29] The residents who made written and oral presentations opposing this part of the application want all of Prospect Road in District 13. It is currently all in one district. Narrative Research made versions of electoral maps available during the extensive Phase 2 public consultation leading up to the DBRR Panel's final recommendation to Council. Narrative Research's final report, in October 2022, shows the boundary between Districts 12 and 13. The electoral maps show the area in dispute in the proposed District 13 (District K on the Narrative Research mapping):



[Exhibit H-1(iv), pdf p. 121]

[30] It is therefore not surprising that until the DBRR Panel's final report, where the boundary was changed, this aspect drew little attention from residents of the Prospect Communities. The main reason for changing the final proposed boundary appears to be related to a potential historical connection between the African Nova Scotian community

of Beechville and lands surrounding Ragged Lake. The community of Beechville is in the proposed District 12.

[31] The DBRR Panel's final report provided the following rationales for the chosen boundaries:

**Proposed District 12**

- Elector Count: 25,729 (+10.6%)
- Includes communities of: Beechville, Lakeside, Timberlea, Otter Lake, Halifax (Clayton Park West, Bayers Lake)
- Changes from existing District 12:
  - Includes the area around Ragged Lake so that it can be included as part of the historic Beechville area with the rest of the community.
  - ...
  - Beechville, as an historic African Nova Scotian community, has been undergoing a formal review of the existing community boundary. The proposed District 12 includes lands around Ragged Lake that are likely to be included within this boundary. These lands are wilderness lands and the existing/proposed Ragged Lake industrial park, and do not affect the proposed number of electors. [Emphasis added]

[Exhibit H-1(iv), pdf p. 29]

[32] The origin of the DBRR Panel's recommendation about the Beechville community boundary is not entirely clear. HRM provided an email dated October 17, 2022, from Kate Green, Director of Regional Planning, to the Municipal Clerk's office. This email had an attached letter dated July 21, 2022, about a review of Beechville's community boundaries. The email was submitted as part of the District Boundary Review. The HRM Clerk's Office can find no record of the email and accompanying letter being forwarded to the DBRR Panel. HRM cannot confirm whether the DBRR Panel considered this correspondence in arriving at its recommendations.

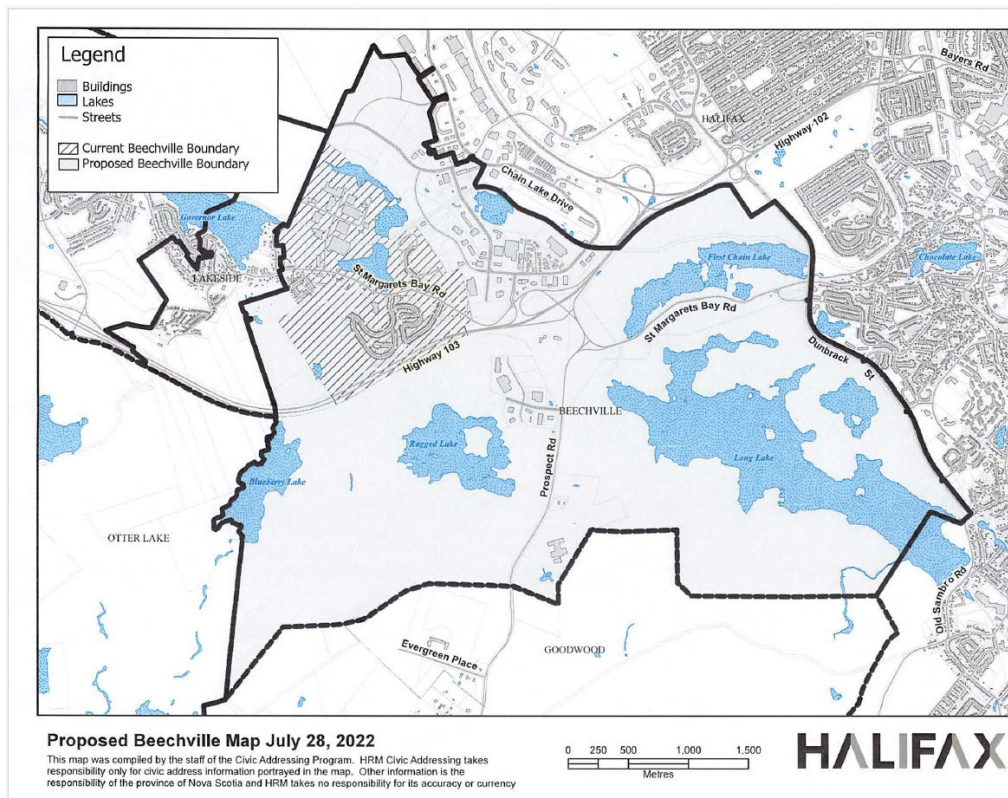


[33] The July 21, 2022, letter was authored by Gayle MacLean, Civic Addressing Coordinator. It provided background information on the Beechville community:

The community of Beechville, originally called Beech Hill, was first settled by refugees who had escaped from slavery during the War of 1812. Many had fought for the British in the war and for their service were granted 5000 acres near the North West Arm, an area that includes present day Beechville, Chain of Lakes, and Nine Mile River. The community is one of the oldest African Nova Scotian communities in Nova Scotia. Over the years outside pressures, particularly the annexation of the former Halifax County by the City of Halifax in 1969, have decreased the size of the community. Throughout the 1970's and 80's the Provincial government and City of Halifax targeted large areas of Beechville for industrial development, which further eroded traditional community boundaries. In order to determine a more accurate boundary preliminary consultation has been undertaken with a community group in Beechville, as well as research on the history of the Beechville community and its boundaries. Based on that information we are proposing a change to the currently community boundaries of Beechville.

[Exhibit H-5, p. 6, HRM Response to Undertaking U-2]

[34] A map of the potential Beechville Community boundary as of July 28, 2022, was included as an attachment to the email:



[Exhibit H-5, pdf p. 8]



[35] We find that regardless of whether the email in question was received, given the analysis of the proposed boundary between District 12 and 13 in the DBRR Panel's final report, it is more likely than not that information like that contained in the email was communicated to the DBRR Panel.

[36] Perhaps of more significance is correspondence we received from Ms. MacDonald dated September 25, 2023, accompanying the undertaking responses:

2. Within the email and attached letter, it makes reference to refugees who had escaped from slavery during the war of 1812 and who had fought for the British in the war, being granted 5,000 acres near the Northwest Arm, being an area that included present day Beechville, Chain of Lakes and Nine Mile River. Upon further research, it has been determined that the refugees from the war of 1812 were not granted 5,000 acres within the Beechville area. HRM regrets the inaccuracy of this statement.

[Exhibit H-5, p. 1]

[37] The Prospect Region Organization for a Better Environment (PROBE) is a not-for-profit community organization with members who currently reside in the communities of Goodwood, Hatchett Lake, McDonald Lake, Brookside, Whites Lake, and Terence Bay. PROBE has represented communities along Prospect Road, from West River to Goodwood, for over 40 years.

[38] On December 1, 2022, upon learning of the proposed revision where the entrance to Prospect Road would no longer be in the proposed District 13, PROBE emailed Mayor Savage, and HRM councillors, to express opposition to the revised boundary. In the end, Council unanimously approved the DBRR Panel's boundary recommendations which had been endorsed by the Executive Standing Committee. The Council Minutes reflect the fact Councillor Patty Cuttall, who represents the polling district which includes the Prospect Communities, was unable to attend the Council meeting where the DBRR Panel's recommendations were adopted.

[39] Along with another 12 people who spoke about the Prospect Road boundary issue, Councillor Cuttall was able to appear before us and provide her views about the issue during the evening session. As well, Maureen Yeadon, the Chair of PROBE, reiterated and elaborated on the issues raised in the letter sent to Council. The Board also received 80 letters of comment about this issue.

[40] We have summarized the key facts and positions presented in the oral and written public presentations:

- There are no electors that live in the land area surrounding this portion of Prospect Road. A change in the proposed boundary would have no impact on the number of electors in either polling districts. It would have no impact on voter parity. This fact is confirmed in the DBRR Panel's final report. HRM further confirmed this during the hearing.
- Prospect Road is the main traffic corridor for the Prospect Communities into the former City of Halifax and other parts of the Province. An alternative route involves a lengthy detour for many of these communities.
- The Beechville community does not regularly use Prospect Road and it does not provide access to that community.
- There are major land areas along this portion of Prospect Road, such as the Halifax Exhibition Centre and the Ragged Lake Industrial Park, where there is potential for expanded residential, industrial, and commercial development.
- There are existing traffic congestion issues on Prospect Road. Development along this section may have significant impacts on residents of the Prospect Communities who use this road daily. This raises not only the potential for inconvenience, but response times for emergency services.
- Development in this area will not materially impact the Beechville community.
- Planning District 4 includes both the Prospect Communities and the land area around the entrance to Prospect Road. The HRM proposal would not follow this boundary.

- Prospect Road should be located within the boundary of the polling district whose residents would be most affected by development in this area so that the councillor elected to represent them could more effectively advocate on their behalf.
- PROBE was involved in the review exercise about the Beechville community boundary and was told it would have no impact on electoral boundaries.
- The issue of the historical basis for the Beechville community boundary is under review. There remain questions about the historical information used to establish the boundary.

[41] We are of the opinion that the location of the polling district boundary at the entrance to Prospect Road should be based on community of interest considerations. This is because none of the other factors set out in s. 368(4) of the *MGA* are applicable. There are no electors, and the boundary placement will not impact voter parity. The geographic size of this uninhabited area is not sufficiently significant to warrant further consideration. Shifting the area from one district to another might marginally impact on current overall population density figures for both districts, but not enough to be a significant factor.

[42] In *Re Halifax Regional Municipality*, 2004 NSUARB 11, the Board listed 10 non-exhaustive factors to consider when looking at what constitutes a community of interest. Such factors as recreation, area rates, language, ethnicity, shopping patterns, and school districts, are not currently significant in an unpopulated area. The current major developments in the area, such as the Halifax Exhibition Centre and the Ragged Lake Industrial Park, are used by a much wider population than the residents of either the proposed Districts 12 or 13.

[43] We find that community of interest factors such as road infrastructure and traffic patterns, emergency services, planning considerations, and history, are most important. They all weigh in favour of the lands along Prospect Road being in the

proposed District 13. We say this because Prospect Road, which has historically been tied to the Prospect Communities, is the main way in and out of these communities. It is used much less by the residents of Beechville. This reality touches on all the factors we consider most important in this case.

[44] We accept the evidence of the public participants and find as a fact that Prospect Road has experienced traffic congestion issues. We also accept the evidence that these traffic congestion issues have much less of an impact on the Beechville community. We further accept that traffic congestion issues can potentially have an impact on response times for emergency services such as fire, ambulance, and police. Based on these traffic patterns alone, there would be a sufficient basis for including the entrance to Prospect Road in District 13.

[45] There is more. Potential new development along Prospect Road, whether related to commercial or industrial uses in the Ragged Lake Industrial Park or residential development on the Halifax Exhibition Centre lands, will require consideration of these traffic congestion issues. This forms part of the planning process.

[46] Currently, the lands at the entrance to Prospect Road are in the same planning district as the Prospect Communities. The Prospect Communities have a councillor elected to represent their district on the Community Council that includes the entrance to Prospect Road. This councillor could advocate for the Prospect Communities, and potentially vote accordingly, during meetings about any planning matters which are delegated to this Community Council.

[47] Mr. MacLean testified that while the boundaries of the districts assigned to Community Councils would change based on our decision, the districts assigned to a particular Community Council ordinarily would not. He further confirmed that Districts 12

and 13 are not part of the same Community Council. Therefore, if the boundary between Districts 12 and 13 remains as proposed, the Prospect Communities, which are intrinsically tied to development at the entrance to Prospect Road, could end up with no representative on the Community Council where planning issues for this area might be considered.

#### **a) Findings**

[48] We appreciate, as suggested by Mr. MacLean, that HRM Councillors have a duty to consider the impact of their decisions on the well-being of the entire municipality. We also agree that a single councillor does not have a veto power at Community Council meetings, and considerably less voting power for matters that come before the entire Council. That said, the concept of a community of interest, as a factor in deciding electoral boundaries, recognizes another political convention and reality. Councillors are also elected to represent local interests. It is no doubt a difficult balancing act.

[49] If we approve HRM's proposed boundary, the community with the most direct tie to development at the entrance to Prospect Road will have less effective representation in planning matters than it currently has. This would be so even if community councils were reorganized, as the councillor representing the area in contention would not be directly answerable to the electors most impacted by potential development at the entrance to Prospect Road. We are of the view that this factor also weighs heavily in favour of changing the proposed boundary to properly take account of community of interest concerns raised by the Prospect Communities.

[50] We have considered the historical context to see if this factor might support a different result. It appears the DBRR Panel was influenced by the community boundary

review exercise undertaken by HRM about the Beechville community. In fact, HRM Council confirmed the recommended Beechville community boundary. That decision was under review at the time of the hearing before us. The difficulty with relying on history as a rationale for changing the polling district boundary between Districts 12 and 13 is that, based on the evidence before us, it is more likely than not the historical information the DBRR Panel relied upon is wrong.

[51] The historical information the DBRR Panel apparently had was that the ancestors of the African Nova Scotian Community of Beechville had been granted 5000 acres of land, in the Ragged Lake area, as refugees of the War of 1812. If that were historically accurate, since the current Beechville community contains much less acreage, an argument could be made that the historical Beechville community of interest extends into the Ragged Lake and Halifax Exhibition Centre lands. HRM has advised that no such grant exists.

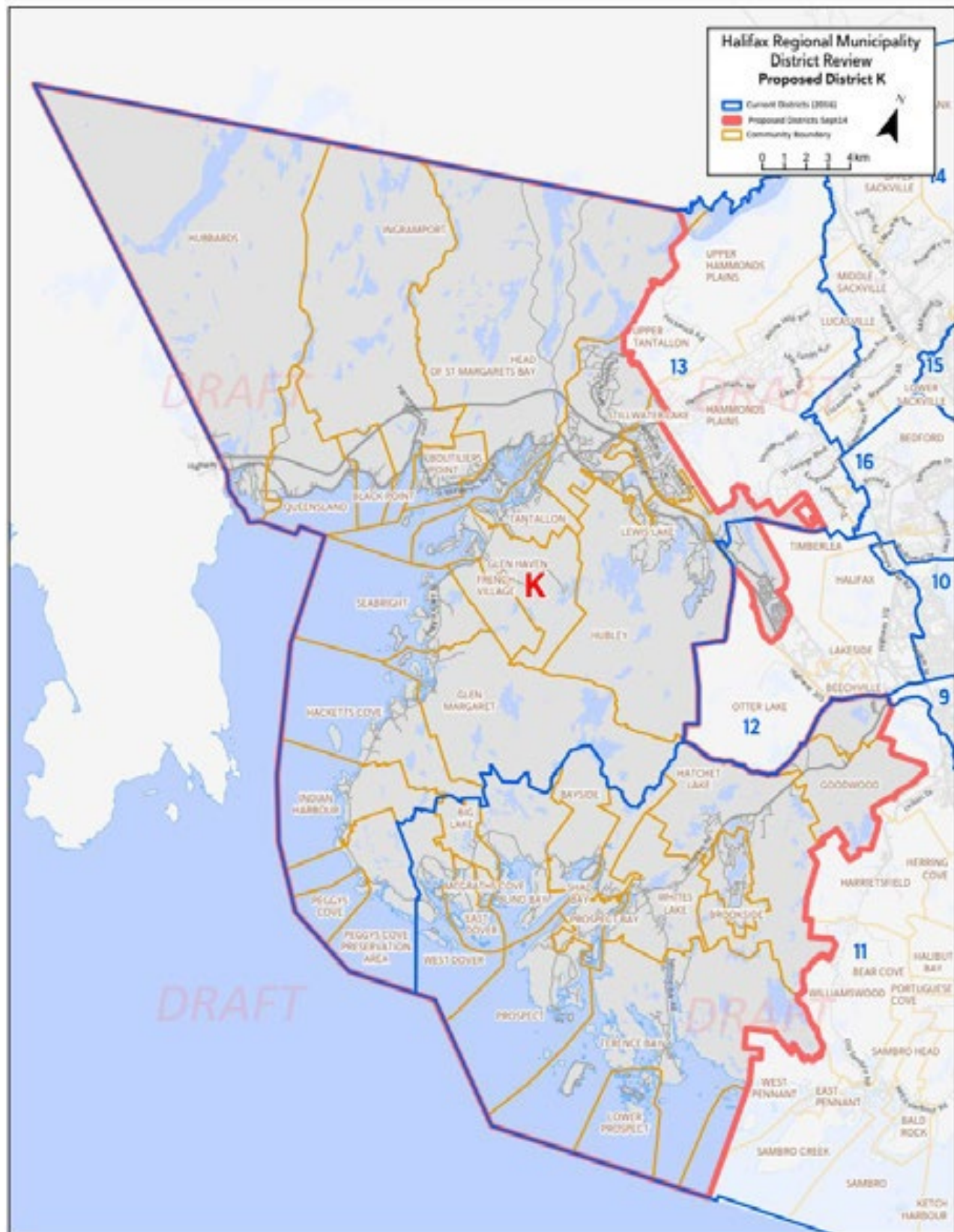
[52] Balancing historical community of interest considerations with a current established community of interest, such as that of the Prospect Communities, when establishing electoral boundaries in an uninhabited area, would be difficult. The exercise would be compounded by the fact that public participants presented information on longstanding historical ties between the Prospect Communities and Prospect Road. We do not need to resolve that issue in this case because, on the evidence before us, there is no basis for finding a historical community of interest exists between the Beechville community and the lands at the entrance to Prospect Road.

[53] Since the Prospect Communities have established a strong and existing community of interest with the entrance to Prospect Road, and no competing community of interest has been established, we find that the proposed boundary between Districts

12 and 13 does not properly take account of this established community of interest. We will amend the boundary to do so.

[54] Having reviewed the maps, the best way to amend the boundary between District 12 and District 13 is to follow the boundary used by Narrative Research during its Phase II public consultation, as illustrated in the map below. The choice of this boundary is based on our understanding there are no electors in the subject area. We will ask for a compliance filing from HRM to file revised polling district maps.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]



[Exhibit H-1(iv), pdf p. 121]



## **2. Blue Mountain - Birch Cove Lakes – proposed Districts 10, 12 and 16**

[55] The Friends of Blue Mountain-Birch Cove Lakes (BMBCL) Society filed a letter of comment asking that the boundaries of the proposed Districts 12 and 16 be amended to include a larger portion of a proposed BMBCL National Urban Park “within District 16”. However, based on a proposed map filed by the Society with its letter of comment, the proposed changes would more accurately be described as involving amendments to Districts 10, 12 and 16, with a larger portion of the Lakes themselves moved from District 12 into District 10 (to the east of a NS Power transmission line), and District 16 being provided with greater “frontage” on the Lakes region along a section of the former Town of Bedford boundary.

[56] The BMBCL Regional Wilderness Park is a candidate park for the federal National Urban Park program launched in August 2021. The Society said that the only other national urban park in Canada is the Rouge National Urban Park. This urban park was established in 2015. Banff is the only national park in Canada with more visitors.

[57] In her letter of comment, Mary Ann McGrath, Chair of the Society, stated:

The proposed BMBCL National Urban Park is currently identified at approximately 5600 acres with a 31 km perimeter and potentially with as many as 33 official access points once the park concept plan is completed.

At various pages of Exhibit H-I(iii), including pages 1052, 1532, 1715, 2001, 2115 and 2531, HRM staff have noted that "This change was made based [on] community feedback to include a portion of the Blue Mountain-Birch Cove Wilderness area within the district to ensure more representation among members of Council for parkland area." The change in question was simply to retain the existing boundary rather than remove Saskatoon Drive which abuts the park from district 16.

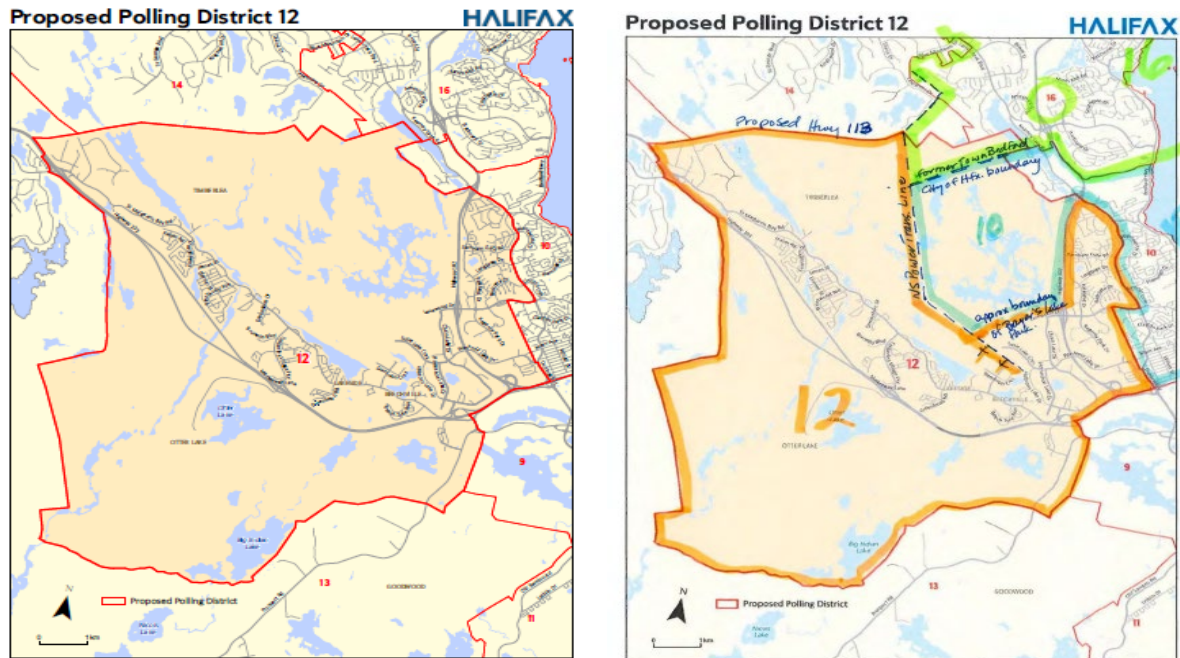
Having spent the last 5 years working to see the BMBCL wilderness park become a symbol of what Nova Scotia has to offer by way of quality of life to all, regardless of circumstances, with its 23 lakes, an urban all day canoe route, all accessible by bus, bike and pedestrian accessibility, the Friends strongly believe that the park needs to be represented by several councillors, particularly all those with residents within proximity to its boundaries. We believe that this would ensure a more comprehensive community of interest approach to boundary making, helping with the establishment of this asset in the best interests of the neighbouring communities.

To this end, we offer the following map as the manner in which we think the boundaries of districts 12 and 16 should be redrawn.

We have discussed this with Councillors Stoddard, Morse and Lovelace and understand this proposal has their endorsement.

[Exhibit H-3, pdf p. 2]

[58] A comparison of the proposed boundaries for Districts 10, 12, and 16 are shown below with the HRM proposed districts on the left [Exhibit H-1(iv), pdf p. 19] and the BMBCL Society's proposal [Exhibit H-3, pdf p. 3] to the right:



[59] We received no other public input on this point in letters of comment or at the evening session. At the hearing, HRM addressed the BMBCL area. Mr. MacLean noted that the issue of parks or recreational areas is not one of the factors that a municipality is required to consider under the *Municipal Government Act*. HRM added that there is presently no guidance on the “representation” of park areas. The issue is whether such areas would best be represented by one or more councillors. Also, in this case, District 10 will be part of a different community council than the other affected districts. Finally, Ms. Perrin said that the final boundaries of the proposed Urban Park have not

been confirmed and that these discussions continue. No electors live in the subject BMBCL area.

**a) Findings**

[60] As noted by HRM, there is currently no guidance on how parks or recreational areas should be “represented” in municipal polling districts. While this issue arose in at least two instances in this application, namely Long Lake (considered later) and BMBCL, the matter was not specifically addressed by HRM in its consultations. In our opinion, it is reasonable to have such areas represented by multiple councillors when possible, as doing so will potentially increase the advocacy and representation for such areas. The Board is mindful that the presence of such areas is important for many members of the public, particularly in large urban areas like HRM.

[61] Members of the public can clearly have a strong affinity or bond to parks or recreational areas. Residents of an area can feel they have a community of interest with others arising from their connection to an adjacent park or recreational area. In the case of the BMBCL area, we are satisfied that representation of this area by multiple councillors, and on different community councils, will allow additional advocacy to support the development of an Urban Park.

[62] The boundary reconfiguration proposed by the Society would generally increase the links and connection to the park area from one district (i.e., 12) to three districts (i.e., 10, 12 and 16). While the final boundaries of the proposed Urban Park candidate have not been confirmed, we are satisfied that the boundaries proposed by the Society are identifiable boundaries that are recognized in the area and generally

represent the region to be canvassed in discussions for the development of an Urban Park. As the park develops, the boundaries can be adjusted in future reviews if necessary.

[63] We conclude that the boundaries of Districts 10, 12 and 16 should be amended to reflect the proposal made by the Society. HRM is to file amended maps of these polling districts in its compliance filing.

### **3. Long Lake - proposed Districts 9 and 11**

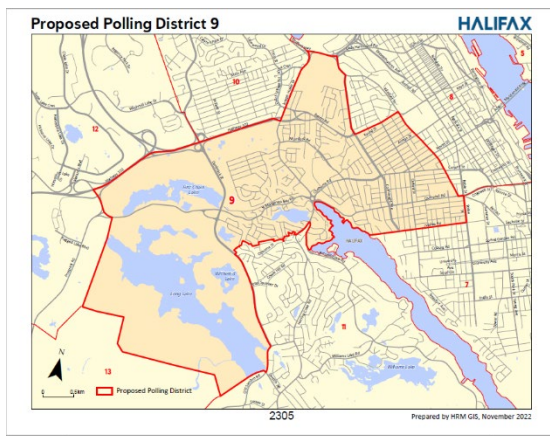
[64] The proposed District 9 will reduce the elector count by less than 1% to just over 23,000. It will include the area bounded by Windsor Street, Quinpool Road, Robie Street, Jubilee Road, Oxford Street, and Bayers Road to keep the West End together as a community of interest. The new boundary includes part of Long Lake Provincial Park, including the entire lake itself. Public feedback indicated concern about the park being contained in a single district, as it is currently, and this proposed boundary splits the park (but not the lake itself) between all surrounding proposed districts (9, 11, 12 and 13).

[65] The proposal to move Long Lake from District 11 to District 9 generated some concern. We received a letter of comment from the Long Lake Provincial Park Association (LLPPA) and had three public speakers in our evening session who were primarily concerned about this issue. LLPPA's letter of comment included a presentation and a copy of the Draft Management Plan between the Nova Scotia Department of Natural Resources and the LLPPA dated June 12, 2008. Martin Williston spoke on behalf of the LLPPA about the presentation in the evening session.

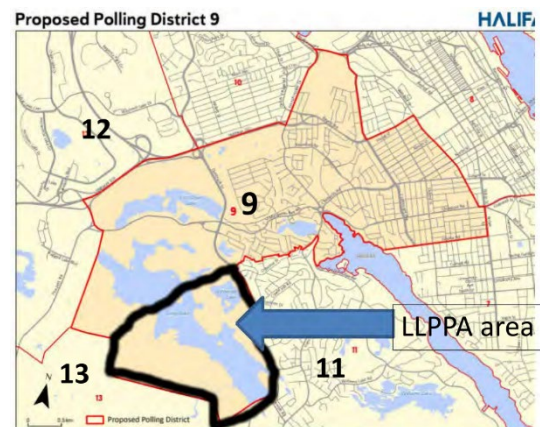
[66] The LLPPA is a registered non-profit group that has represented citizen interests about the park since 1987. The LLPPA has had a management agreement in place with the Province since 2015 to manage a section of the park and lake. Mr. Williston

said that most members of the LLPPA live in District 11. These volunteers take great pride in the lake and its surrounding trails and said that it makes sense for a portion of the lake and trails to stay in their district. These members of the LLPPA pick up garbage, mow the grass and take care of other maintenance issues related to the park. No voters live in the park.

[67] An HRM staff report in April 2023 recommended that the boundary between Beechville and Spryfield divide Long Lake between these two communities. This would divide the lake itself between Districts 9 and 11. The LLPPA supports this polling district boundary and provided a map showing the recommended boundary in its letter of comment.



[Exhibit H-1 (iv), p. 2305]



[Exhibit H-3, pdf p. 56]

Mr. Williston said it was beyond the LLPPA's mandate to decide if more than one councillor should represent the entire Long Lake Provincial Park. He said the LLPPA would be satisfied if the southeastern portion of the lake and surrounding land and trails remained in District 11.

[68] Bruce Holland and Wyatt Redmond represented the Spryfield Business Commission at the evening session. Mr. Redmond is a business owner who has been

“working the streets” of Spryfield for 44 years. Mr. Redmond said the residents of Spryfield worked towards the development of the LLPPA for many years and that Long Lake is “their lake”. Mr. Redmond said that the community supports the park by cutting grass, picking up garbage, and caring for the lake and trails.

[69] Mr. Redmond preferred not splitting the park into four districts as is proposed by HRM. He said that there will be too many decision makers and it will be difficult to get things done. Mr. Holland reiterated Mr. Redmond's comments.

#### **a) Findings**

[70] As with the Beechville/Prospect Road boundary, we are of the opinion that the location of the polling district boundary in the Long Lake Provincial Park area should be based on community of interest considerations including recreation and history. Geography in the region of the Provincial Park is also a factor. None of the other factors set out in s. 368(4) of the *Municipal Government Act* apply. There are no electors, and the boundary placement will not impact voter parity.

[71] We agree that the boundary proposed by the LLPPA, that splits Long Lake between Districts 9 and 11, is appropriate as it meets the objectives of sharing responsibility for the park and lake between more than one district and satisfies the LLPPA's concerns. While we appreciate Mr. Redmond's submissions, we are satisfied boundaries related to Long Lake and Long Lake Provincial Park that provide representation of this area by multiple councillors, and on different community councils, may provide additional advocacy for the park as discussed for the BMBCL above.

#### **4. Pleasant Street to Woodside, Dartmouth – proposed Districts 3 and 5**

[72] We heard concerns about the change in the polling district boundaries between the proposed Districts 3, 5 and 6. Highway #111 (also referred to as the Circumferential Highway), from the Micmac interchange at Main Street south to Woodside at the harbour, currently serves as the boundary between District 3 (Dartmouth South – Eastern Passage) to the west and District 5 (Dartmouth Centre) and District 6 (Harbourview – Burnside – Dartmouth East) located to the east and northeast, respectively.

[73] Changes to the eastern boundary of District 5 were required to accommodate a significant change on the western side of District 5, to include North Dartmouth, Highfield Park, Shannon Park and Princess Margaret Boulevard into District 5 with other central Dartmouth neighbourhoods. The new boundary would follow the Regional Centre Plan boundary and would add 7,439 electors to District 5.

[74] HRM proposes to move the boundary between Districts 3 and 5 from Highway #111 westward closer to Dartmouth to the vicinity of Old Ferry Road. Further, it is proposed that a portion of District 5 in the vicinity of Penhorn Drive and Manor Park will be moved northeast across Highway #111 to District 6. The Board received letters of comment from residents who were concerned about these changes.

[75] Maureen Woodrow filed a letter of comment and spoke at the evening session to voice her concerns about the proposed change that would move the boundary of District 5 westward from the Circumferential Highway to the Old Ferry Road. She also submitted a petition signed by about 40 residents of Newcastle Street opposing this proposed change. She resides on Newcastle Street and stated the street is divided between Districts 3 and 5 under the proposed new boundary. She said that the Newcastle

Street area is a close-knit community and the proposal would split the area between two districts. Her letter of comment stated:

...We are asking that the houses between Old Ferry and Parker St. be left in the downtown area of District 5. It includes ~25 houses and would not significantly change the numbers for the districts, but would certainly be better for the residents.

Newcastle St. is a true community. For over 25 years, the residents of Newcastle St. have held a street party every November 10th (except during Covid). This has created an opportunity for neighbors to get to know each other which has resulted in a close and caring community. For example Florence Dares who passed away last October at 103 was able to live alone in her home in part because of being supported by her neighbours.

Newcastle St is a downtown community. We Shop downtown and at the weekend market, use the Alderney ferry, frequent the coffee shops downtown, and walk to and use the parks in the downtown area. Our interests and needs are more aligned with the downtown community. The playground at the top of Newcastle is used by many of the families who live in the houses on the other side of Old Ferry.

We understand the boundary has to be placed somewhere. However, Newcastle St. is unique. In a fast paced, growing city, our street still has a small town feel where the neighbors know and care for each other. In the past when an issue has arisen, we have contacted our representative. If the change goes through we would need to approach two representatives for the same issue.

...

The needs and interests of our street would be better served by one representative.

[Exhibit H-3, pdf p. 139]

[76] Ms. Woodrow reiterated these comments at the evening session and filed a petition signed by about 40 residents of Newcastle Street.

[77] Nada Toulany of the Manor Park area also expressed her concerns about the boundary change between Districts 5 and 6. In her letter of comment, she said that the proposed transfer of the Manor Park area from District 5 to District 6 would split Manor Park into two districts. In her view, the municipal concerns from this area are “more congruent with Lake Banook and Crichton Park than Burnside” (while the Board notes that the Burnside Industrial Park comprises almost half the geographic area of District 6, there is a significant residential and commercial area immediately north and northeast of Manor Park – across the Circumferential Highway – between Waverly Road and Portland Street).



[78] Ms. Toulany noted that residents in her neighbourhood on Bow Street are already divided between two school districts and further dividing the polling district as proposed would divide them even further in a different way. She preferred that Manor Park remain entirely in District 5 or, alternatively, be divided along the same school district boundaries as the Halifax Regional Centre for Education.

[79] Natasha Murray also filed a letter of comment expressing her concern that part of her “Old Dartmouth” neighbourhood was proposed to be transferred from District 5 to District 3 (North Woodside and Eastern Passage). She stated that her Southdale neighbourhood “faces unique challenges that may be quite different than other more suburban neighbourhoods”. As examples, she noted issues like new apartment building construction, increasing population density, homelessness, crime and the potential infilling of Dartmouth Cove. She submitted that it should be possible to keep the downtown Dartmouth core intact.

[80] The Board asked for undertakings from HRM to provide revised mapping options for possible changes to the boundaries between Districts 3 and 5 and between Districts 5 and 6. These undertakings would allow the Board to consider the impact of boundary changes on the average number of electors per district.

[81] Undertaking U-4 extended the southeasterly boundary of proposed District 5 towards Woodside to include the area south of Pleasant Street along the harbour and to remove it from District 3. This would have the effect of moving all the Newcastle Street area into District 5, as well as various commercial and business uses along the harbour (including the NS Community College campus). The extended area would have a well-recognized boundary in the form of Pleasant Street north from the harbour and extend to Woodside near the ferry terminal, another known landmark. The HRM witnesses also

stated that the topography of the area north of Pleasant Street was also much more elevated than near the harbour, further acting as a separation of the area north and south of Pleasant Street. Based on HRM's undertaking, this would transfer 1,273 electors from District 3 to 5. This would change the variances from the average number of electors per district from 8.9% to 3.4% (District 3) and from 10.4% to 15.9% (District 5).

[82] Undertaking U-1 showed the impact of transferring a larger part of District 3 to District 5. This change would also transfer the Newcastle Street area to District 3 (but only to the end of Newcastle Street Park), along with the area north of Pleasant Street bounded by Prince Arthur Avenue on the east and Portland Street to the north. It would include the Southdale neighbourhood, Cameron Street and Parker Street. Based on HRM's undertaking, this would transfer 1,597 electors from District 3 to 5. This would change the variances from the average number of electors per district from 8.9% to 2.0% (District 3) and from 10.4% to 17.3% (District 5).

[83] Undertaking U-3 showed the impact of restoring Penhorn Drive and the Manor Park area to District 5. HRM had proposed to remove this area from District 5 and add it to the remainder of District 6 on the northeastern side of the Circumferential Highway. Based on HRM's undertaking, restoring this area to District 5 would transfer 1,653 electors from District 6 to 5. This would change the variances from the average number of electors per district from -1.1% to -8.2% (District 6) and from 10.4% to 17.5% (District 5).

[84] The Board notes that bringing the areas shown in Undertaking U-1 from District 5 to District 3 (1,597 electors) and in Undertaking U-3 from District 6 (1,653 electors) would increase the variance for District 5 from 10.4% to 24.4%.

**a) Findings**

[85] The location of the boundary between Districts 3 and 5 was previously canvassed by the Board in HRM's 2011 municipal boundary application. The boundary between Districts 3 and 5 was previously located in the vicinity of the Old Ferry Road but in that application HRM extended District 5 to the east up to the Circumferential Highway at Woodside. At the time, this boundary change was supported to allow this extended area to be in the same district as Downtown Dartmouth. The Board approved the change in its decision, 2011 NSUARB 196. The discussion on this point is instructive:

[67] Timothy A. Olive, Executive Director of the Downtown Dartmouth Business Commission, made a presentation at the evening session in support of District F/6:

In trying to preserve our particular history in the former City of Dartmouth, post-amalgamation, we never strayed from over 250 years of history and experience in guiding our economic, social, and cultural development...

Downtown Dartmouth and its areas of influence have that history. The district boundary submission before you meets the test of ensuring that the history of Dartmouth outlined as District F-6 becomes the beacon for our future development. The criteria for new boundaries was based on the number of voters, the family of schools affected, and the community of interest.

The majority of the 29,000 voters in Dartmouth proper are located in District F-6, which, by its configuration, meets all three criteria. New electoral districts adjacent to District F-6 now have an opportunity to develop their large -- their new larger communities, thus meeting the initial challenges of amalgamation. The revised electoral districts as presented will create larger communities of interest in these expanding areas of the municipality.

...

The revised District F-6 boundary is consistent with the new regional centre plan from HRM. This plan identifies a distinct area of economic growth and is part of the larger regional plan that promotes growth of the urban core and the commercial development of the capital district of HRM.

[Transcript, pp. 272-273]

[68] The Board accepts the evidence of Mr. Olive that downtown Dartmouth should be comprised in one polling district. This is also consistent with the comments received in the public consultation process conducted by HRM, which led to the proposed District F/6 submitted by the Municipality.

[69] With the exception of Lakeshore Park noted earlier in this Decision (i.e., the transfer of 106 electors to District G/7), the Board is satisfied that the Circumferential Highway #111 represents an appropriate and well-recognized landmark to serve as the polling district boundary along the northern and eastern edge of District F/6. While the Board is mindful that Highway #111 represents a departure from the current boundary now located west of Woodside, as noted by Councillor Jackie Barkhouse, the Board accepts the evidence of Mr. Olive to the effect that the inclusion of the Community College and Woodside Industrial Park in District F/6 is important to foster economic development with downtown Dartmouth.

[2011 HRM Municipal Boundary Decision, 2011 NSUARB 196, paras. 67-69]

[86] The Circumferential Highway has served as a well-recognized landmark to act as the boundary line between Districts 3 and 5. In the case of Districts 3 and 5, the respective communities of interest were recognized in the Board's *2011 HRM Municipal Boundary* decision.

[87] However, the population growth in HRM over the past decade, and its distribution across the Municipality, has in some cases required adjustment to the polling district boundaries as some areas grew more than others. Some communities of interest may have even changed in this dynamic context, with the creation of new communities of interest as development expanded into these areas.

[88] In the case of District 3, 5 and 6, the relative growth in parts of these districts has impacted the relative parity of voting power among these districts compared to other districts in HRM. As noted earlier in this decision, the growth in HRM has caused the average number of electors per district to increase. In the case of District 5 specifically, the changes on the eastern side of District 5 were also required to accommodate the addition of North Dartmouth, Highfield Park, Shannon Park and Princess Margaret Boulevard to District 5 on its western side. The Board accepts HRM's reasons for adding this area to District 5 since there is a strong community of interest between this area and other central downtown Dartmouth neighbourhoods. The new boundary also follows the Regional Centre Plan boundary. However, the addition of those communities on the

western side of District 5, without any changes on the eastern side, would cause the number of electors in District 5 to significantly exceed the average number of electors per district in HRM.

[89] Nevertheless, there remain strong communities of interest in parts of these districts. The Newcastle Street area is one example.

[90] Based on its review of the evidence and submissions, the Board concludes that the southeasterly boundary of proposed District 5 should be extended as shown in Undertaking U-4 to include the area south of Pleasant Street along the harbour up to Woodside. This will increase the variance in District 5 from the current 10.4% to 15.9%. While this is more than the  $\pm 10\%$  normally applied by the Board, it is justified in the circumstances to maintain the strong community of interest which exists between the Newcastle Street area and the area along the harbour with downtown Dartmouth. The new variance from the average number of electors for this district would not exceed that of other proposed districts in the urban/suburban core, such as proposed District 16. HRM is to file amended maps of Districts 3 and 5 in its compliance filing to reflect this change.

[91] We also considered whether it was possible to move other areas back into District 5, including the areas shown in Undertakings U-1 and U-3. However, the addition of these districts would result in variances from the average number of electors per district exceeding 20%, which would not be appropriate.

[92] As noted previously in this decision, polling district boundaries can be configured in a variety of ways to reflect different or overlapping communities of interest. There is seldom a perfect or ideal configuration of polling district boundaries. Further, the relative parity of voting power will change over time among districts as HRM's population grows and the population is re-distributed across the region. Accordingly, this will

inevitably result in more boundary changes in the future, including in areas like Districts 3, 5 and 6.

#### **IV CONCLUSION**

[93] The evidence presented by HRM supports maintaining 16 polling districts. All proposed polling districts fall within the  $\pm 10\%$  guideline applied by the Board, except six districts. Three of the districts only slightly exceed  $\pm 10\%$ , while the other three districts still fall within  $\pm 25\%$ . The Board accepts HRM's reasons for altering the polling district boundaries, except for the findings of the Board in this decision.

[94] The Board commends HRM 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.


[95] The Board approves the application, as amended by this decision. The number of polling districts is set at 16, each electing one councillor. The Board approves the proposed changes to the polling district boundaries, subject to its findings in this decision.

[96] HRM has filed digital maps of the proposed polling district boundaries. 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 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 HRM.

[97] HRM will prepare new digital maps, as amended in this decision. An Order will issue after the Board receives the new digital maps for the polling districts.

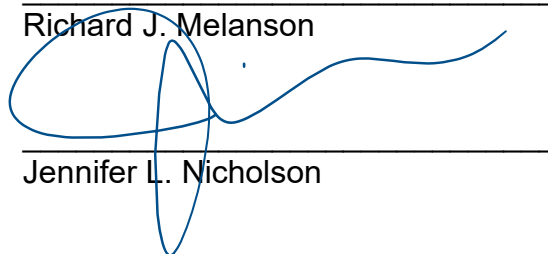
**DATED** at Halifax, Nova Scotia, this 21<sup>st</sup> day of December, 2023.



Roland A. Deveau



Richard J. Melanson



Jennifer L. Nicholson