

DECISION

**2023 NSUARB 145
M10841**

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE MUNICIPAL GOVERNMENT ACT

- and -

IN THE MATTER OF AN APPLICATION by the **WEST HANTS REGIONAL MUNICIPALITY** to confirm the number of councillors and to alter the boundaries of polling districts

BEFORE: Roland A. Deveau, K.C., Vice Chair

APPLICANT: **WEST HANTS REGIONAL MUNICIPALITY**
Shelleena Thornton, Supervisor Municipal Operations

HEARING DATE: July 14, 2023

SUBMISSIONS: July 20, 2023

DECISION DATE: **August 10, 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 West Hants Regional Municipality 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 11 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 West Hants Regional Municipality (Municipality) applied to the Board to confirm the present number of councillors at 11, and to alter the boundaries of the polling districts.

[5] The Notice of Hearing was advertised in the Valley Journal Advertiser on June 20 and 27, 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 received two letters of comment, both opposing the application. The hearing was held virtually on the GoToWebinar platform on July 14, 2023.

[6] Shelleena Thornton, Supervisor of Municipal Operations, presented the application for the Municipality. She was accompanied by Mark Phillips, Chief Administrative Officer, and Deanna Snair, Municipal Clerk. There are presently 11 councillors elected from 11 polling districts. The population of the Municipality according to the 2021 Census is 19,509, an increase of 493 since the 2016 Census.

[7] Table 1 sets out the number of eligible electors in each existing polling district based on the updated 2020 Elections Nova Scotia data:

Table 1 Polling Districts			
Polling District	Number of Electors	Variation from Avg. Number of Electors	
		#	%
1	1,167	-242	-17.2%
2	1,257	-152	-10.8%
3	1,363	-46	-3.2%
4	1,341	-68	-4.8%
5	1,407	-2	-0.1%
6	1,688	279	19.8%
7	1,566	157	11.2%
8	1,490	81	5.8%
9	1,411	2	0.2%
10	1,500	91	6.5%
11	1,305	-104	-7.4%

Total number of electors: 15,495
Number of councillors: 11
Average number of electors per councillor: 1,409

[8] 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 11 polling districts proposed in the application:

Polling District	Proposed Electors	Variation from Avg. Number of Electors	
		#	%
1	1,403	-6	-0.6%
2	1,306	-103	-7.3%
3	1,234	-175	-12.4%
4	1,341	-68	-4.8%
5	1,579	170	12.1
6	1,360	-49	-3.5%
7	1,367	-42	-3.0%
8	1,539	130	9.3%
9	1,561	152	10.8%
10	1,305	-104	-7.4%
11	1,500	91	6.5%

Total number of electors: 15,495
 Number of councillors: 11
 Average number of electors per councillor: 1,408

[9] The reasons given in the application for maintaining the same number of councillors and altering the boundaries of the polling districts were:

- ... voter parity, population changes and Communities of Interest. Population and the number of eligible electors has changed based off the 2020 Municipal Elections final list of electors.

[10] The Board is mindful of the background leading to this application by the Municipality. In October 2018, the Legislature passed the *Region of Windsor and West Hants Municipality Act* which amalgamated the Municipality of West Hants and the Town of Windsor into a regional municipality called the Region of Windsor and West Hants Municipality, effective on April 1, 2020 (its name was subsequently changed to West Hants Regional Municipality). The statute required the Co-ordinator to apply to the Board to determine the number of councillors and the boundaries of the polling districts. The Co-ordinator and Co-ordinating Committee retained Stantec Consulting Ltd. (Stantec) to conduct a process to assist the Committee in determining an appropriate governance structure for the new regional municipality. Stantec's process included public consultations and analysis about the number of councillors and polling districts, as well

as the boundaries of polling districts. Stantec recommended that the regional municipality's council be comprised of a Mayor, elected at large, and 11 councillors elected from 11 polling districts. In a decision dated August 19, 2019, the Board approved the application for 11 polling districts, each electing one councillor: 2019 NSUARB 112 (M09052). The mayoral governance model chosen by the Municipality was outside the scope of the Board's jurisdiction in such matters. The details of the extensive consultation process carried out prior to the 2019 application are described in the Board's earlier decision.

[11] Noting the recent municipal boundary review, accompanied by an extensive public consultation process, and the Board's 2019 decision, the Board wrote to the Municipality on December 21, 2021. While recognizing that it did not have the authority to waive the statutory requirement for a further study and application in 2022, it stated:

...However, in the circumstances, assuming Council has satisfied itself through public consultation that there is general public acceptance of the current Council size, and to the configuration of the polling district boundaries, the Board is prepared to consider a simplified application with respect to the [2019] review. Subject to the public or any intervenor raising the issue of the number of Councillors, the application may be limited to a consideration of polling district boundaries.

[12] Given the short period of time since the last review, the Municipality decided to focus its review on the polling district boundaries. The Municipality again engaged Stantec to conduct the public consultation and to make recommendations to Council about Council size and the polling district boundaries. The Stantec Report outlined the scope of their review, including whether the Council size should remain at the status quo, and how the public engagement was conducted. In consultation with municipal staff, Stantec arranged a series of six public meetings and developed a questionnaire to obtain the public's views on an adjusted 11-district boundary scenario compared to the current

polling district boundaries. Stantec also conducted interviews with the individual councillors. The six public meetings were held as follows, each from 6:00 to 9:00 p.m.:

- Southwest Hants Fire Hall - Tuesday, November 1, 2023
- Hantsport Memorial Community Centre - Wednesday, November 2, 2023
- Brooklyn Civic Centre - Thursday, November 3, 2023
- Summerville Fire Hall - Wednesday, November 9, 2023
- Windsor Community Centre (Downstairs Room) - Thursday, November 10, 2023
- Falmouth Community Centre - Monday, November 14, 2023

[13] In its report, Stantec stated that while the meetings attracted “modest attendance, the meetings generated interesting discussion and very helpful comments concerning boundaries”. The first meeting drew three citizens and a councillor, as did the meeting in Hantsport. The Brooklyn session attracted nine, while the best turnout was in Summerville, where 11 members of the public attended. The final two meetings in Windsor and Falmouth attracted five citizens and a councillor, and three citizens and a councillor, respectively. Thirty-four residents in total attended the public sessions.

[14] The survey, which was mailed out and posted online, generated 275 responses (205 hard copy responses and 71 online). Information about the boundary review process was also posted on the municipal website and its social media channels. After a mapping error was discovered in the maps that had been circulated, Stantec prepared corrected maps of the existing districts and the initial survey was re-issued in mid-November, with the survey closing on November 30, 2023.

[15] The survey respondents were asked directly about Council size. Responses favoured a smaller Council by a narrow margin over the current eleven members (46.2% v. 43.3%). Only 4.0% wanted to see Council increase in size. However, Stantec noted that if that small group was added to those who preferred the current

Council size, slightly more responses prefer a Council of 11 or more (47.3%), compared to a smaller Council.

[16] On the issue of polling district boundaries, the survey asked about the current boundaries for the 11 existing polling districts compared to the adjusted 11-district boundaries scenario prepared by Stantec. Responses were evenly divided between the current and the adjusted boundaries (27.4% and 27.8%, respectively), but the most frequent answer rejected both options (32.2%). Those who preferred the adjusted boundaries generally cited better adherence to the $\pm 10\%$ voter parity criterion. Respondents who preferred the current boundaries indicated they were happy with the current operation of the Municipality and saw no need for change. The group that rejected both boundary options cited Council size issues much more frequently than concerns about the boundaries. Most of these respondents felt Council should have fewer councillors than the 11 provided in each boundary option.

[17] Stantec presented its report to Council, recommending that Council size be maintained at 11 polling districts. In Stantec's opinion, the narrow margin in favour of maintaining the status quo or increasing Council size was sufficient to justify Council's position that the current review should concentrate on boundaries rather than governance (i.e., the number of districts). However, Stantec observed that the results showed "a strong indication that Council size is an issue or, perhaps, a concern for many residents".

[18] On the issue of polling district boundaries, Stantec noted that four of the Municipality's current polling districts fall outside the $\pm 10\%$ voter parity standard applied by the Board. It considered that over the next eight years it is likely the distribution of electors will be further distorted. While the survey found approximately equal support for

the current and adjusted boundaries, Stantec concluded that comments from the respondents as well as input through other consultation initiatives provided ample direction for improvement. It made recommendations for various revisions to the polling district boundaries in its final report at Council's meeting of December 13, 2022. Council considered the report and requested two sets of further revisions to the district boundaries. Stantec made these revisions to the proposed district maps, and at its meeting of January 24, 2023, Council approved the application to the Board to confirm the number of councillors at 11 and to change the polling district boundaries as proposed in the application.

[19] All meetings of Council are open to the public and broadcast live on Facebook. Except for the two people who wrote to the Board opposing the application (described below), the municipal staff received no objections or comments about these final changes.

[20] Paul Beazley, the former Mayor of Windsor, and Scott McLean, the current District 2 councillor, provided letters of comment. Echoing what he said during the public consultation, Mr. Beazley submitted that the Municipality is "over-governed". Comparing the Municipality to the abutting municipal units and nearby Municipality of the County of Annapolis (Annapolis), he said that West Hants Regional Municipality did not compare favourably. Providing various statistics for East Hants, County of Kings, County of Cumberland, District of Lunenburg, and Annapolis, he noted that West Hants is -30% to -50% below the average for certain key measures, including population, assessment, revenue and geographic size. Nevertheless, he noted that West Hants has 20% more councillors than the average for the neighbouring municipalities. Further, he noted that

the average number of councillors for all “rural” municipalities in the province is 8.5 councillors, with West Hants having 12 (including the Mayor). He noted the costs associated with the larger governance model are not insignificant, especially when you consider the compounded costs over the next 8 – 10 years. In the end, his suggestion was to require the next municipal boundary review in 2026, rather than 2030, with the objective being to implement changes for the 2028 municipal election.

[21] Mr. McLean indicated that when he campaigned during the 2020 municipal election, most residents told him they were satisfied with 11 councillors and one mayor as this would give good representation to rural West Hants. He believed that it was too soon to change district boundaries since the consolidation of the municipal units had just recently occurred. He said it would confuse residents and could deter them from voting in the 2024 municipal election. Mr. McLean also questioned the elector statistics for District 2 used by Stantec and the Municipality, saying he believed a number of electors had moved into his district since the 2020 municipal election because of new home construction.

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] 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.

[24] 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.

[25] 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.

[26] In terms of Council size, the Board notes that the Municipality has experienced significant municipal governance changes in the recent years. As noted earlier in this decision, the former Municipality of the District of West Hants and the Town of Windsor were amalgamated by statute into a regional municipality, effective April 1, 2020. Moreover, those proceedings were preceded by the dissolution of the Town of Hantsport into the District of West Hants. The Board ordered the dissolution of the Town, 2015 NSUARB 154 (Matter M06209), effective July 1, 2015. Given those circumstances, the Board finds that the Municipality's application to maintain the Council size at 11 is reasonable and appropriate. While the Board is mindful of Mr. Beazley's comments that West Hants remains "over-governed" compared to other neighbouring municipalities, the size of municipal government overall has decreased significantly in the past few years

and the Municipality is entitled to deference, at least in the interim, to continue its work towards an effective and efficient governance model. Further, as noted in the survey conducted by Stantec, a slight majority of residents are satisfied with maintaining the Council size, or increasing it. The Board approves the number of polling districts and councillors at 11.

[27] The Board will not direct the Municipality to conduct a municipal boundary review by 2026, as requested by Mr. Beazley. The next regularly scheduled review under the *Municipal Government Act* will be in 2030. If the Municipality wishes to conduct such a review before that, it is entitled to do so.

[28] All proposed polling districts fall within the $\pm 10\%$ guideline applied by the Board, except for three polling districts: District 3 at -12.4% , District 5 at 12.1% and District 9 at 10.8% . Stantec and the Municipality proposed revised boundaries for most of the polling districts to address relative parity of voting power and improve communities of interest within districts. Most of the revisions reflect comments received during the public consultation. While Mr. McLean submitted it was too soon after the recent amalgamation to change the district boundaries, the Board finds that the revisions are appropriate. In the absence of any changes, two of the existing polling districts had reached voter parity variances of -17.2% (District 1) and 19.8% (District 6) using 2020 data, well beyond the standard applied by the Board. As noted during the hearing, District 6 has seen significant growth in the number of electors and will continue to do so. The revised boundaries allow for more growth in District 6. Mr. McLean also noted growth in his District. Given such growth in the Municipality, the Board considers it appropriate to revise the boundaries now, rather than wait until the next review when the variances for

voter parity could become much worse. The Board accepts the Municipality's reasons for altering the polling district boundaries, as proposed.

[29] The Board commends the Municipality on the extensive consultation and study process followed. Council, staff and Stantec 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 11, each electing one councillor. The Board also approves the proposed changes to the polling district boundaries.

[31] The Municipality 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 the Municipality. The digital maps were filed in the application.

[32] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 10th day of August 2023.



Roland A. Deveau