

DECISION

**2023 NSUARB 89
M10938**

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE MUNICIPAL GOVERNMENT ACT

- and -

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

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

APPLICANT: **MUNICIPALITY OF THE DISTRICT OF BARRINGTON**
Chris Frotten, Chief Administrative Officer

HEARING DATE: May 9, 2023

DECISION DATE: **May 19, 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 District of Barrington 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 five 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 District of Barrington (Municipality) applied to the Board to confirm the present number of councillors at five and to alter the boundary between Polling Districts #2 and #5 in the Oak Park Road area.

[5] The Notice of Hearing was advertised in the Tri-County Vanguard on February 22, 2023, and the Lobster Bay Shopper on March 10, 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 objections, letters of support, or requests to speak. The hearing was held at Municipal Council Chambers at Barrington, Nova Scotia, on May 9, 2023. The Warden, Deputy Warden and Municipal Clerk were present during the hearing.

[6] Chris Frotten, Chief Administrative Officer, presented the application for the Municipality. There are presently five councillors elected from five polling districts. The population of the Municipality according to the 2021 Census is 6,523, which is a 1.9% decrease since the 2016 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	1,078	-12	-1.1
2	1,326	236	21.7
3	955	-135	-12.4
4	860	-230	-21.1
5	1,231	141	12.9

Total number of electors: 5,450
 Number of councillors: 5
 Average number of electors per councillor: 1,090

[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 five polling districts proposed in the application:

Polling District	Proposed Electors	Variation from Avg. Number of Electors	
		#	%
1	1,078	-12	-1.1
2	1,364	274	25.1
3	955	-135	-12.4
4	860	-230	-21.1
5	1,193	103	9.4

Total number of electors:	5,450
Number of councillors:	5
Average number of electors per councillor:	1,090

[9] Mr. Frotten outlined various reasons for Council's decision to maintain the number of councillors and polling districts at five. He noted that the Municipality reduced the Council size from seven to five in 2012. He stated that the Municipality had conducted an extensive public consultation process for this application and there was strong support for maintaining the current number of polling districts. Over 70% of respondents to an online survey were satisfied with the current Council size.

[10] The reasons given in the application for altering the boundary between Polling Districts #2 and #5 in the vicinity of Oak Park Road were:

- The current boundary currently has one side of that section of Oak Park Road in District 2 and the other side in District 5. This has caused confusion among the electors on that section of Oak Park Road as this area has historically been entirely a part of District 2.

[11] Mr. Frotten stated that the change to the boundary would bring both sides of Oak Park Road into District #2, between Highway #3 and River Road.

[12] Municipal staff undertook an extensive consultation process to seek public input regarding the size of municipal government as well as the boundaries of polling districts. Seven people attended three open house meetings held on July 13, July 20 and July 27, 2022, and written submissions were also invited. Notices of the meetings were advertised in the Lobster Bay Shopper, on radio, on the Municipality's Facebook page, and background material was placed on a dedicated municipal webpage for the municipal boundary review.

[13] Municipal staff also conducted an online survey which was open from July 1 to July 31, 2022. Paper copies of the survey were also available. It asked respondents whether the current Council size was appropriate and whether the existing district

boundaries should be changed. The Municipality received 104 survey responses, with 70% of respondents saying five polling districts was an appropriate number and 72% were satisfied with the district boundaries.

[14] At its meeting on September 27, 2022, Municipal Council approved the application to the Board to maintain the five polling districts and to change the polling district boundary in the vicinity of Oak Park Road.

III FINDINGS

[15] 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.

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

[17] 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.

[18] There were no objections to the application.

[19] Three of the proposed polling districts fall outside the $\pm 10\%$ guideline applied by the Board: District #2 at 25.1%; District #3 at -12.4%; and District #4 at -21.1%. Indeed, two of the polling districts fall just within the $\pm 25\%$ variance allowed by the Board in exceptional circumstances. As noted by Mr. Frotten, the geographic size and layout of the Municipality and the small number of polling districts (i.e., five), limits the ability of the Municipality to configure all its polling districts within a $\pm 10\%$ variance, while maintaining communities of interest. The Board is satisfied that the Municipality has appropriately balanced these factors to attain reasonable boundaries for the five polling districts. The boundary change in the vicinity of Oak Park Road is also appropriate.

[20] 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 generally achieved among the polling districts, while respecting communities of interest.

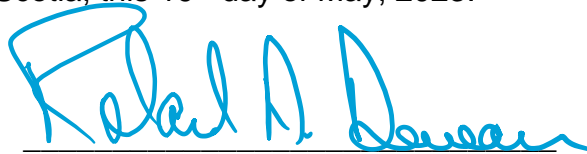
[21] The Board approves the application. The number of polling districts is set at five, each electing one councillor. The Board also approves the proposed changes to the polling district boundaries.

[22] The Municipality filed a digital map 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 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.

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

DATED at Halifax, Nova Scotia, this 19th day of May, 2023.



Roland A. Deveau