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MEMORANDUM

TO: Chair and Members of the District Boundary Resident Review Panel
FROM: Iain MacLean, Municipal Clerk
Liam MacSween, Elections and Special Projects Manager
DATE: June 28, 2022
SUBJECT: **Supplemental Information – Communities of Interest**

“Community of interest” is one consideration for the Nova Scotia Utility and Review Board (“NSUARB”) in determining the number and boundaries of polling districts in accordance with section 368(4) of the Municipal Government Act (“MGA”). The five factors the NSUARB is required to consider in making its determination are: number of electors, relative parity of voting power, population density, community of interest and geographic size.

Halifax Regional Municipality, Re, 2004 NSUARB 11¹

In 2000, the Municipality was directed by the NSUARB to file an application with respect to the number of councillors and polling districts for the 2004 municipal election by June 30, 2003. The NSUARB issued its decision in February 2004. This decision provides guidance with respect to the five items the NSUARB is to consider in making its determination as set out in section 368(4) of the MGA.

With respect to communities of interest, the NSUARB stated (at paragraphs 77-81):

[77] Many witnesses spoke to community of interest issues. Mr. Schaffenburg who in the Board’s view, has a very good familiarity with community of interest issues within HRM, indicated that in his opinion both the HRM Modified Proposal (Table 3) and the DBAC 20 district proposal, generally speaking, satisfy community of interest concerns.

[78] Mr. Anstey submitted in argument that community of interest factors should relate to services or issues within municipal jurisdiction.

[79] Mr. Radchuck defined community of interest as:

“The compact and contiguous geographic area in which the residents have common or shared social, cultural, ethnic, or economic interests.”

¹ <https://www.canlii.org/en/ns/nsuarb/doc/2004/2004nsuarb11/2004nsuarb11.pdf>

[80] He indicated that the shared interests may be a result of history or culture, economic profiles, recreational facilities or a variety of other common ties between individuals and groups. He suggested 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.

[81] Many witnesses spoke to community of interest issues. Among the comments made were:

(a) District 12 - a strong preference to keep the downtown area of Halifax in one district;

(b) District 16 - Prince's Lodge and Hemlock Ravine Park were areas identified in evidence as having a community of interest with areas along the southern end of the Bedford Highway;

(c) District 19 and 20 - There were many residents from Stonemount Subdivision who spoke concerning their community of interest with Sackville;

(d) District 21 - there was a great deal of representation before the DBAC with respect to concerns of the residents of the older and more established areas of Bedford that their district remain within one district;

(e) District 6 - The areas of Lake Loon and Cherry Brook were said to have a closer community of interest with Cole Harbour than with the Preston area.

These are but examples and are not meant to be exhaustive.

In its analysis of the factors, the NSUARB wrote (at paragraphs 82, 86-87):

[82] Based on the evidence in this hearing, including some of the background materials used by Mr. Radchuck in developing his report, and the witnesses of HRM, the Board has determined that the target variance for parity shall be +10%, provided community of interest issues are generally satisfied. Any variance in excess of +10% must be justified in writing, and the more a variance exceeds 10% the greater and more detailed the written explanation that will be required. The Board would be reluctant, however, to approve a variance greater than +25%, particularly given the urban character of most of HRM. In addition, the Board considers it appropriate that relatively rapid changes in population in particular districts be considered. In particular, a negative variance for areas experiencing rapid growth should help to ensure maintenance of reasonable relative parity over a reasonable period of time.

...

[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...

Halifax (Regional Municipality) (Re), 2011 NSUARB 119²

In 2011, the NSUARB reduced the number of councillors and districts to 16. When it did so, it sent the matter back to the Municipality to prepare polling district boundaries, giving the following guidance to the Municipality (at paragraphs 174-177):

[174] As a result of the Board's finding that Regional Council shall have 16 polling districts, the second phase of this proceeding must address the reasonableness and fairness of the boundaries of the respective districts. The Board now refers that issue back to HRM to determine the appropriate polling district boundaries and return to the Board for the second phase of this proceeding...

[175] The Board considers it appropriate to provide guidance to HRM on a few points related to determining the boundaries.

[176] In establishing polling district boundaries, the factors to be considered remain those outlined in s. 368(4) of the Act. One of the factors listed is relative parity of voting power. In *Re Halifax Regional Municipality*, [2004] NSUARB 11, the Board outlined appropriate standards for relative parity of voting power, determining that the target variance for relative parity should be $\pm 10\%$, provided community of interest issues are generally satisfied. These standards have been applied by municipalities across the province since 2004.

[177] The Board is mindful that HRM Council, staff, or consultants will now face the challenge of drawing polling district boundaries that meet the standards outlined by the Board. As noted in the hearing, HRM has a large geographic size containing urban, suburban and rural components. In conducting this exercise, HRM should note that, in exceptional cases, the Board has allowed variances up to and over $\pm 25\%$, where large geographic areas and communities of interest justify the departure from the standard which normally applies. The Board considers that such higher variances may apply in a few of the polling districts to be drawn in this proceeding, such as large sparsely populated rural

² <https://www.canlii.org/en/ns/nsuarb/doc/2011/2011nsuarb119/2011nsuarb119.pdf>

areas. It should be noted that the more the variance exceeds 10% the greater and more detailed the justification the Board will expect.

Halifax (Regional Municipality) (Re), 2011 NSUARB 196³

When the Municipality returned with proposed polling district boundaries, the NSUARB reiterated its guidance (above) with respect to communities of interest, and stated (at paragraphs 31-32, 34):

[31] In 2004 NSUARB 11, cited above, the Board also outlined the factors to be considered in assessing communities of interest:

[113] Community of interest criteria to be taken into account include:

- history
- recreational issues
- tax rates, ie. area rates
- services (water and sewer)
- fire protection service areas
- traffic infrastructure and patterns
- planning boundaries
- language
- ethnic origin
- school districts
- shopping patterns and business centres

There may have to be accommodation of competing community of interest factors. Geography may also be a factor: in the present context of this decision, this term includes problems arising from a polling district having a much larger than average land area, and a consequent much lower than average density of voters per square mile. [Board Decision, 2004 NSUARB 11]

[32] Further to the evidence in this hearing, the Board notes that an additional criteria to be considered is the existing communities themselves. In some cases, various communities will be grouped together to form a polling district, while in the case of very large communities, one or a few may form a polling district by themselves.

...

[34] The Board is mindful that the drawing of boundaries by HRM for the new 16 polling districts in this proceeding was a challenging endeavour. This difficult task was made even harder by the numerous communities of interest scattered across a large geographic area, characterized by population densities divided into urban, suburban and rural regions. Further, there were other factors to consider, such as the geography of the region (including the Halifax peninsula, Halifax Harbour, and HRM's extended coastline) and the important transportation routes in the Municipality.

³ <https://www.canlii.org/en/ns/nsuarb/doc/2011/2011nsuarb196/2011nsuarb196.pdf>

With respect to the relationship between communities of interest and the other factors listed in section 368(4) of the MGA, the NSUARB stated (at paragraphs 36-37):

[36] However, the evidence presented in this proceeding leads the Board to conclude that a number of changes must be made to some of the polling district boundaries. These changes, in several instances, are required to better reflect communities of interests. While the Board recognizes that HRM tried to respect the $\pm 10\%$ guideline for relative parity of voting power, it is always necessary to balance relative parity of voting power with the other factors listed in s. 368(4) of the Act, including community of interest, geographic size and population density.

[37] The drawing of polling district boundaries is not a straightforward task. The Board accepts the view of Ms. Mellett that the task is “one part science and one part art.” Thus, in conducting this exercise, a municipality (or this Board on an application) must take into account, and apply, concurrently, all the factors listed in s. 368(4) of the Act, together with the factual considerations which exist in the matter before it. The task is also a fluid exercise. Thus, judgment is inherent in the process and, as further facts are received, a refinement of the polling district boundaries may become necessary. At some point, however, the practical considerations will require that the boundaries be established for the next municipal election and be reassessed during a subsequent review. The objective of the exercise, in the Board’s view, is that the factors in s. 368(4) and the underlying facts are applied in as balanced a fashion as possible in the circumstances.