

**DECISION**

**NSUARB-MB-04-03  
NSUARB-MB-07-14  
2007 NSUARB 166**

**NOVA SCOTIA UTILITY AND REVIEW BOARD**

**IN THE MATTER OF THE MUNICIPAL GOVERNMENT ACT**

**- and -**

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

**- and -**

**IN THE MATTER OF AN APPLICATION** by the **BOUNDARY ACTION REVERSAL COMMITTEE** to amend the boundary between Polling Districts #3 and #4

**BEFORE:**

Roland A. Deveau, Panel Chair  
Wayne D. Cochrane, Q.C., Member  
Murray E. Doehler, CA, P.Eng., Member

**COUNSEL:**

**HALIFAX REGIONAL MUNICIPALITY**  
Mary Ellen Donovan, LL.B.  
Sara Knight, LL.B.

**BOUNDARY ACTION REVERSAL COMMITTEE**  
Alma Johnston, Chair

**HEARING DATE:**

June 13, 2007

**FILED UNDERTAKINGS:** July 4, 2007

**DECISION DATE:**

**November 22, 2007**

**DECISION:**

**Application approved, with an amendment to the boundary between Polling Districts #3 and #4.**

## INTRODUCTION

[1] The *Municipal Government Act*, S.N.S. 1998, c. 18 (the "Act") requires the council of every municipality to conduct a study and make an application to the Nova Scotia Utility and Review Board (the "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.

[2] Halifax Regional Municipality ("HRM" or the "Municipality") applied to the Board to confirm the present number of councillors at 23, and further, to alter the boundaries of polling districts in three locations.

[3] Following 12 days of hearings, the Board's decision of February 13, 2004, *Re Halifax Regional Municipality*, [2004] NSUARB 11, set the number of polling districts for HRM at 23, and set standards for relative parity of voting power. It also established HRM's polling district boundaries. The Boundary Action Reversal Committee strongly disagrees with the boundary between Polling Districts #3 and #4, stating that both the Cherry Brook and Lake Loon areas should be transferred into Polling District #4 (Cole Harbour). In its decision, the Board transferred the Montague Road/Humber Park area and a portion of Lake Loon to the Cole Harbour district, but the Cherry Brook area was retained in Polling District #3.

[4] The background behind the involvement of the Boundary Action Reversal Committee in this proceeding is outlined in a further decision of the Board: *Boundary Action Reversal Committee v. Halifax Regional Municipality*, [2004] NSUARB 58, issued on June 21, 2004. In that decision, the Board ruled that the Committee's application be adjourned and that it be considered along with the present application which HRM was required to file in connection with the review scheduled to occur in 2006 pursuant to s. 369 of the *Municipal Government Act*. Among the reasons for its decision to adjourn the hearing of the Committee's application, the Board noted that all persons had full opportunity to make submissions during the 12 days of hearing in November 2003 - January 2004. Further, the Board concluded that proceeding to a hearing at that time would be unduly disruptive to the municipal election process outlined in the *Municipal Elections Act*, R.S.N.S. 1989, c. 300, respecting the regular municipal election scheduled for October 2004.

[5] In a letter dated July 19, 2006, the Board granted a request by HRM to follow a simplified process for the 2006 review under s. 369 of the *Municipal Government Act*. This approval was provided on the basis of the extensive review and hearing process which occurred in 2003 and 2004, together with an undertaking by HRM to conduct a comprehensive review of the number and boundaries of polling districts in 2010. Accordingly, HRM was not required to consider the number of councillors and polling districts in the 2006 review process. The present review was limited to minor boundary adjustments to address elector variance figures which exceeded, without adequate

justification, the  $\pm 10\%$  standard applied by the Board, as well as instances where the community of interest would be better served by a minor adjustment.

[6] HRM's present application was filed on April 20, 2007. As noted in the preceding paragraph, it seeks to confirm the number of polling districts and councillors at 23, pending a comprehensive review in 2010. The application proposes only three changes to the existing polling district boundaries. The proposed changes, along with the reasons in support of the said changes, are described in the application as follows:

- a) **Bedford South area (Tab 5):** Adjust the boundary between District 16 (Rockingham-Wentworth) and District 21 (Bedford). The current boundary bisects several recently created and proposed lots at Rochdale Place and Worthington Place. The adjusted boundary would place all lots fronting on Rochdale Place and Worthington Place within District 21, as these two culs-de-sacs are only accessible from Vanier Way, which is already located in this District. The rest of the boundary would remain unchanged. This recommendation would have a negligible effect on the number of voters in each district. It is a housekeeping amendment designed to eliminate potential confusion.
- b) **Hubley Lake area (Tab 6):** Adjust the boundary between District 22 (Timberlea-Prospect) and District 23 (Hammonds Plains - St. Margarets) to follow nearby lot lines. The rest of the boundary would remain unchanged. This recommendation would have a negligible effect on the number of voters in each district. This can be characterized as a housekeeping amendment.
- c) **Middle & Upper Sackville - Lucasville (Tab 7):** Adjust the boundary between District 2 (Waverley - Fall River - Beaver Bank) and District 19 (Middle & Upper Sackville - Lucasville) so that the lands containing Barretts Lumber and homes owned by Mr. Barrett surrounding the business be placed in District 2. The rest of the boundary would remain unchanged. This recommendation would have a negligible effect on the number of voters in each district.

[7] With respect to the application from the Boundary Action Reversal Committee, HRM Council decided to retain the current location of the boundary between Polling Districts #3 and #4, leaving the area of Cherry Brook/Lake Loon in Polling District #3 (Preston-Lawrencetown-Chezzetcook) rather than transferring it into Polling District #4 (Cole Harbour).

[8] The Notice of Hearing was advertised in the **Chronicle Herald** and **Daily News** on May 22 and 29, 2007. The hearing was conducted at the Board offices on June 13, 2007. Mary Ellen Donovan and Sara Knight acted as solicitors for HRM. Alma Johnston, who serves as Chair of the Boundary Action Reversal Committee, acted as agent on its behalf at the hearing.

[9] Table 1 sets out the number of eligible electors contained in each polling district in the last municipal election held in October 2004:

<b>Table 1 Polling Districts</b>			
<b>Polling District</b>	<b>Number of Electors</b>	<b>Variation from Avg. Number of Electors</b>	
		<b>#</b>	<b>%</b>
1 Eastern Shore - Musquodoboit Valley	9,338	(1,897)	(16.9%)
2 Waverley - Fall River - Beaver Bank	12,699	1,464	13.0%
3 Preston - Lawrencetown - Chezzetcook	13,528	2,293	20.4%
4 Cole Harbour	13,855	2,620	23.3%
5 Dartmouth Centre	11,875	640	5.7%
6 East Dartmouth - The Lakes	12,244	1,009	9.0%
7 Portland - East Woodlawn	12,055	820	7.3%
8 Woodside - Eastern Passage	11,794	559	5.0%
9 Albro Lake - Harbourview	10,143	(1,092)	(9.7%)
10 Clayton Park West	9,723	(1,512)	(13.5%)
11 Halifax North End	11,094	(141)	(1.3%)
12 Halifax Downtown	8,828	(2,407)	(21.4%)
13 Northwest Arm - South End	10,841	(394)	(3.5%)
14 Connaught - Quinpool	10,515	(720)	(6.4%)
15 Fairview - Clayton Park	10,029	(1,206)	(10.7%)
16 Rockingham - Wentworth	9,404	(1,831)	(16.3%)
17 Purcell's Cove - Armdale	9,866	(1,369)	(12.2%)
18 Spryfield - Herring Cove	11,047	(188)	(1.7%)
19 Middle & Upper Sackville - Lucasville	11,760	525	4.7%
20 Lower Sackville	11,745	510	4.5%
21 Bedford	11,094	(141)	(1.3%)
22 Timberlea - Prospect	13,161	1,926	17.1%
23 Hammonds Plains - St. Margarets	11,758	523	4.7%

Total number of electors: 258,396  
 Number of councillors: 23  
 Average number of electors per councillor: 11,235

## EVIDENCE

[10] Marcus Garnet, Senior Planner, and Hilary Campbell, Planning Technician, presented the application on behalf of the Municipality. There are presently 23 councillors elected from 23 polling districts. The population of HRM according to the 2006 Census is 372,858, up from 359,183 in 2001.

[11] Hilary Campbell is a Planning Technician with HRM's Community Development, Planning Services. She was qualified to testify as an expert to provide opinion evidence on the application of technology and information systems respecting the development and depiction of polling district boundaries. Her work primarily involves the collection of statistical information and its application to a digital mapping system.

[12] In her testimony, Ms. Campbell described her compilation of data respecting the number of electors and their distribution across HRM. She indicated that HRM relied on the 2006 Census data as a reliable source of information upon which to base the present application. She described how the Census data was broken down in order to allot the eligible electors into the proposed polling districts.

[13] Table 2 gives some of the statistical information which was included in the application. The data contained in Table 2 incorporates the proposed boundary changes for the Bedford South, Hubley Lake and Middle/Upper Sackville areas described above in paragraph 6. This Table sets out the estimated number of eligible electors contained in each polling district, based on the 2006 census, as proposed in the application:

<b>Table 2 Proposed Polling Districts</b>			
<b>Polling District</b>	<b>Number of Electors</b>	<b>Variation from Avg. Number of Electors</b>	
		<b>#</b>	<b>%</b>
1 Eastern Shore - Musquodoboit Valley	10,188	(2,382)	(18.9%)
2 Waverley - Fall River - Beaver Bank	13,517	947	7.5%
3 Preston - Lawrencetown - Chezzetcook	14,340	1,770	14.1%
4 Cole Harbour	13,691	1,121	8.9%
5 Dartmouth Centre	12,146	(424)	(3.4%)
6 East Dartmouth - The Lakes	12,730	160	1.3%
7 Portland - East Woodlawn	12,978	408	3.2%
8 Woodside - Eastern Passage	12,697	127	1.0%
9 Albro Lake - Harbourview	12,702	132	1.1%
10 Clayton Park West	12,339	(231)	(1.8%)
11 Halifax North End	12,390	(180)	(1.4%)
12 Halifax Downtown	13,246	676	5.4%
13 Northwest Arm - South End	12,490	(80)	(0.6%)
14 Connaught - Quinpool	11,680	(890)	(7.1%)
15 Fairview - Clayton Park	11,063	(1,507)	(12.0%)
16 Rockingham - Wentworth	11,741	(829)	(6.6%)
17 Purcell's Cove - Armdale	11,794	(776)	(6.2%)
18 Spryfield - Herring Cove	11,465	(1,105)	(8.8%)
19 Middle & Upper Sackville - Lucasville	12,664	94	0.7%
20 Lower Sackville	11,920	(650)	(5.2%)
21 Bedford	12,480	(90)	(0.7%)
22 Timberlea - Prospect	14,416	1,846	14.7%
23 Hammonds Plains - St. Margarets	14,428	1,858	14.8%

Total number of electors: 289,103  
 Number of councillors: 23  
 Average number of electors per councillor: 12,570

[14] In cross-examination by Ms. Johnston, Ms. Campbell confirmed that the existing Polling Districts #3 and #4 had experienced different rates of growth between 2004 and 2006. The percentage variance from the average number of electors per councillor had decreased from 14.1% (2004) to 8.9% (2006) in Polling District #4 (Cole Harbour). Polling District #3 (Preston-Lawrencetown-Chezzetcook) had increased during the same period from an average percentage variance of 10.7% to 14.1%. Ms. Campbell acknowledged that Polling District #3 experienced significant growth with over 1,200 additional electors, while Polling District #4 remained relatively stable with a modest increase of about 180 electors.

[15] Marcus Garnet is a Senior Planner with HRM's Regional/Community Planning. He was qualified to testify as an expert able to provide opinion evidence as a planner respecting communities of interest.

[16] He briefly described the process undertaken by HRM leading to the present application. Mr. Garnet was involved in the four public meetings held by HRM, before the matter went to Council. He also drafted the staff report, which outlined the results of the public consultation process, incorporated the data compiled by Ms. Campbell, and provided staff's recommendations.

[17] With respect to the Cherry Brook/Lake Loon area, Mr. Garnet testified that HRM staff recommended to Council that this area be transferred from Polling District #3 (Preston-Lawrencetown-Chezzetcook) to Polling District #4 (Cole Harbour). In the staff report to Council dated April 11, 2007, staff concluded:

**Cherry Brook-Lake Loon Boundary Action Reversal Committee Application**

**Application to move Cherry Brook from District 3 (Preston-Lawrencetown-Chezzetcook) to District 4 (Cole Harbour) (Map 5):** As a parallel process, staff were also instructed to consider the application to the Board from the Cherry Brook/Lake Loon Boundary Action Reversal Committee. The application was supported by an April 2004 petition to the Nova Scotia Legislature copied to HRM in January 2007 (see cover letter in Attachment D).

Reasons provided by the Boundary Action Reversal Committee and other attendees at the public meetings include a long history of association between Cherry Brook, Lake Loon, Humber Park, Westphal and Cole Harbour; and that the community is oriented in a north-south, and not an east-west direction.

During the last polling district review in 2004, staff recommended using Highway 7 as a boundary between Districts 3 and 4 because the variances would no longer allow District 4 to extend north of the highway to include Cherry Brook. The Board partly over-ruled this in its 2004 decision, by retaining Lake Loon/Humber Park in District 4, but was not able to include Cherry Brook due to the very high variance that would have resulted.

The latest data show that this situation no longer applies. Cherry Brook can be included in District 4 without unduly affecting voter variances, provided that Lake Major Road remain in District 3. This would reduce the variance for **District 3** from 14.1% to 9.1%, though the variance for **District 4** would rise from 8.9% to 13.9%. While this would be above the target, it would be no higher than the 14.1% variance as approved by the Board in 2004.

The decision regarding this boundary application requires a judgement regarding what the community of interest is. This requires weighing a number of factors that cannot necessarily be quantified. The staff recommendation however is consistent with the Board's decision in 2004 as well as the public submissions during that review. There may be other factors which Council may wish to consider.  
[Emphasis added]

[18] Mr. Garnet testified that, in making their recommendation, staff considered the significant public input received on this issue, including the filing of a petition with the Nova Scotia Legislature in April 2004 containing over 300 signatures. He also noted that staff's recommendation was consistent with a community of interest described during HRM's public meetings. Representatives of the Boundary Action Reversal Committee and local residents made presentations at HRM's meetings on January 25 and March 22, 2007. While Mr. Garnet stated that "community of interest" is a difficult concept to apply in some instances, staff's recommendation to move the Cherry Brook area into Polling District #4 (Cole Harbour) was consistent with the public's input on this point.

[19] At its meeting of April 17, 2007, Council did not adopt staff's recommendation respecting the Cherry Brook area.

[20] At the request of the Board, Mr. Garnet and Ms. Campbell filed an undertaking following the hearing with respect to potential development in the respective polling districts (i.e., #3 and #4). The undertaking showed that 550 new units are anticipated in the next few years in Polling District #3 (Preston-Lawrencetown-Chezzetcook), while only 260 new units are expected in Polling District #4 (Cole Harbour).

[21] Councillor Harry McInroy testified in support of HRM's application, specifically with respect to retaining the status quo between Polling Districts #3 and #4. He has been a councillor in the area for 26 years.

[22] In his view, the status quo should be maintained until the comprehensive review in 2010. At that time, he hopes that the elector variances might be such so as to allow the inclusion into Polling District #4 (Cole Harbour) of areas currently outside that polling district, but historically considered part of the Cole Harbour. He noted as examples the area containing the historic view of the waters of Cole Harbour as seen from Long Hill (presently in Polling District #3), as well as the Flying Cloud Drive area currently in Polling District #7. He added that the latter area also contains such important historic landmarks as the Cole Harbour Heritage Farm Museum. He stated that the possibility of recapturing some of these areas during the 2010 review might be constrained by transferring the Cherry Brook area into Polling District #4.

[23] Councillor McInroy testified that maintaining the present boundary between Polling Districts #3 and #4 would not impact the delivery of municipal services to the Cherry Brook area.

[24] Laura Lee Nicoll and Jill Hogg reside in Cole Harbour and have volunteered in many community activities, including school advisory committees, the Board of Cole Harbour Place and the Cole Harbour Rural Heritage Society. They reiterated the comments of Councillor McInroy with respect to potentially recapturing, during the 2010 review, areas historically associated with Cole Harbour.

[25] Councillor David Hendsbee represents Polling District #3. While he presently resides in the Lake Major Road area, he has lived near Cherry Brook since his childhood. He urged the Board to maintain the status quo between Polling Districts #3 and #4 until HRM's review in 2010.

[26] He testified that Highway #7 should be used as the boundary between the two polling districts, stating that the orientation of the community of interest in Cole Harbour is East/West rather than North/South.

[27] Alma Johnston testified in support of the Boundary Action Reversal Committee. She described the historic connection between the predominantly Black community of Cherry Brook and Cole Harbour, along with the intervening communities of Lake Loon, Humber Park, Montague Road and Montague Estates.

[28] Ms. Johnston stated that the Cherry Brook/Lake Loon area has contributed significantly to the growth of Cole Harbour, such as when the men from Cherry Brook

worked as farmers in Cole Harbour in the early years. She pointed out that residents of Cherry Brook had given up, voluntarily or otherwise, some of their lands to accommodate watershed, highway and power infrastructure that all facilitated the growth of Cole Harbour. She noted that this resulted in many residents of Cherry Brook, including herself, being forced to move and build homes in the surrounding communities of Humber Park, Montague Road and Cole Harbour.

[29] She testified that members of the Cherry Brook/Lake Loon community had also contributed, through the payment of taxes and volunteering effort, to the development of Cole Harbour Place, a large recreational and community centre.

[30] Due to the above history of contribution to the development of Cole Harbour, the residents of Cherry Brook feel a strong affinity to Cole Harbour, which she described as being stronger now than at any time in the last 40 years.

[31] John Harlow also testified in support of the Boundary Action Reversal Committee. He has resided in Humber Park since 1968. He echoed the comments of Ms. Johnston that there is a strong community of interest between Humber Park, Montague Road, Lake Loon and Cherry Brook and that this sub-area also has a strong community of interest with Cole Harbour, noting that community leaders and volunteers in his area have expended countless hours on the growth of Cole Harbour and its infrastructure, including the fire station and Cole Harbour Place.

## FINDINGS

[32] Section 368(4) of the *Act* sets out the criteria for the Board to consider as follows:

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.

[33] In previous municipal boundary decisions prior to 2004, the Board had permitted a maximum variation of  $\pm 25\%$  from the average number of electors per councillor as the appropriate guideline to use in reviewing the number and boundaries of polling districts. The  $\pm 25\%$  variance had occasionally been exceeded by some municipalities. It had always been the Board's intention, however, that this variance should represent the *maximum* range, rather than the rule.

[34] 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: see *Re Halifax Regional Municipality*, [2004] NSUARB 11. 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.

[35] 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 or geographic size 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.

[36] Except for the proposed location of the boundary between Polling Districts #3 and #4, there has been no objection made to the application. The Board accepts the reasons advanced by HRM for changing the boundaries in the three locations described above at paragraph 6, respecting the Bedford South, Hubley Lake and the Middle/Upper Sackville areas. Any of the proposed polling districts that fall outside the  $\pm 10\%$  guideline applied by the Board are justified in order to protect communities of interest or to accommodate expected growth. In other cases, any attempt to improve the relative parity of voting power in one polling district would initiate a domino effect and seriously compromise the percentage variation in other polling districts.

[37] The sole contentious issue raised during this proceeding relates to the boundary between Polling District #3 (Preston-Lawrencetown-Chezzetcook) and Polling District #4 (Cole Harbour). This issue attracted significant attention in the public consultation process conducted by HRM in advance of its application, as well as in evidence at the hearing before the Board.

[38] The Boundary Action Reversal Committee submits that the Cherry Brook/Lake Loon area should be transferred from Polling District #3 to #4. Alma Johnston, who testified on behalf of the Committee, indicated that there is a strong community of interest between Cherry Brook/Lake Loon and Cole Harbour. On the other hand, witnesses who testified in favour of maintaining the status quo, including Councillor Harry

McInroy (District #4), Councillor David Hendsbee (District #3), Laura Lee Nicoll and Jill Hogg (residents of Cole Harbour), asked the Board to leave the existing boundaries intact in order to potentially accommodate, in future reviews, an extension of the Cole Harbour polling district boundaries to include other areas historically associated with Cole Harbour (e.g., the region comprising the Flying Cloud Drive area near the western portion of Polling District #4, but located on the eastern edge of Polling District #7).

[39] Taking into account all of the evidence, the Board concludes that the Cherry Brook/Lake Loon area should be transferred from Polling District #3 to Polling District #4. The Board accepts the evidence of Ms. Johnston and Mr. Harlow, who testified that there is a strong community of interest between Cherry Brook/Lake Loon and Cole Harbour. It is clear that the community of interest which exists is more than an historical one, and is currently exhibited in various other means, including recreational issues, water and sewer services, fire protection service areas, traffic infrastructure and school districts. Many of these factors have been previously identified by the Board as criteria to be taken into account in determining communities of interest: see *Re Halifax Regional Municipality*, [2004] NSUARB 11, para. 113.

[40] At the hearing, some witnesses for HRM urged the Board to maintain the status quo in order to accommodate the future transfer of the area containing the historic view of the waters of Cole Harbour as seen from Long Hill (presently in Polling District #3), together with the area containing such historic landmarks as the Cole Harbour Heritage Farm Museum (presently in Polling District #7). While these locations undoubtedly

possess historical significance, the arguments for moving such areas into Polling District #4 (Cole Harbour) are less compelling than the evidence tendered by the Boundary Action Reversal Committee.

[41] Further, the Board notes that the transfer of the Cherry Brook/Lake Loon area to Polling District #4 (Cole Harbour) can be achieved without any significant impact on relative parity of voting power. According to an undertaking filed by HRM, this change would result in a transfer of 620 electors from District #3 to #4. The resulting variance for Polling District #3 would decrease from 14.1% to 9.1%, while the variance for Polling District #4 would only increase from 8.9% to 13.9%.

[42] As noted by Mr. Garnet during his testimony, the Board had observed merit in transferring Cherry Brook/Lake Loon to the Cole Harbour district in its decision dated June 21, 2004, respecting the application of the Boundary Action Reversal Committee. However, the Board concluded that such a transfer would have had a far greater impact on relative parity of voting power at that time:

[43] The applicant asks that the boundary between Colby/Forest Hills and Preston be moved so that Cherry Brook and Lake Loon will now be in Colby/Forest Hills. The applicant had little to say about the effects of such a move upon voter parity between the two districts, or the potential effects upon the remaining 21 polling districts. In effect, Ms. Johnston says that she and her committee are focused on moving the boundary between the two polling districts, and any collateral consequences for other districts are of little interest to them. The Board, however, must keep in mind not just these two polling districts, but the other districts as well, in the context of a variety of factors, including such important matters as community of interest and voter parity. The latter, the Board noted in its February decision (para. 67), has been described by the Supreme Court of Canada as being of "prime importance." The variance for Colby/Forest Hills is already +14.1%, the highest positive variance for all of the polling districts established by the Board in its February 2004 decision. Both HRM and the applicant now acknowledge that moving the boundary as requested by the committee will immediately increase the variance from +14.1% to about +20%. Moreover, the evidence before the Board indicates that Colby/Forest Hills is a growth area, meaning that the positive variance of +20% would likely increase still further. In the view of the Board, this would move the district from an undesirable, but workable, variance to one which is unacceptable in the present circumstances.

[43] From the Board's review of the evidence currently before it in this proceeding, it concludes that two factors contribute to significantly better percentage variances in the present hearing. First, HRM staff, in consultation with the Boundary Action Reversal Committee, have been able to identify the appropriate boundaries of the Cherry Brook/Lake Loon area under review. Once this area was identified, the analysis of the 2006 Census data provided a more accurate representation of the actual number of electors affected by the transfer.

[44] Second, the proposed transfer will potentially accommodate future growth in Polling District #3, which appears to be the location where more growth is expected to occur relative to Polling District #4. According to evidence filed by HRM at the request of the Board, greater growth is anticipated in the Preston-Lawrencetown-Chezzetcook district than in the existing district of Cole Harbour. In this regard, the Board is comforted by the data which confirmed that more development is projected for Polling District #3 than for Polling District #4. At the request of the Board, HRM filed an undertaking showing the number of new units anticipated for each polling district. A total of 550 new units are anticipated in the next few years in Preston-Lawrencetown-Chezzetcook, while only 260 new units are expected in next few years in Polling District #4 (Cole Harbour).

[45] Finally, it is the view of the Board that it is not appropriate to deny the application of the Boundary Action Reversal Committee in favour of maintaining the status quo in advance of the future municipal boundary review in 2010. As noted above, the transfer of the Cherry Brook/Lake Loon area into Polling District #4 is consistent with its

strong community of interest with Cole Harbour. In addition, the basis for maintaining the status quo, as advocated by some, would appear to be unnecessary, if their intention is to "recapture" other areas historically associated with Cole Harbour which have been "lost" to other polling districts. For instance, the area of Flying Cloud Drive, located in Polling District #7, was referred to at the hearing. However, the transfer of its 2,600 electors into the Cole Harbour district would increase the variance for Polling District #4, by the Board's estimation, to over 29%. Such a result would be clearly unacceptable.

[46] In the end, the transfer of the Cherry Brook/Lake Loon area into Polling District #4 is appropriate in the present circumstances. However, this boundary, and others, will all be subject to further examination in 2010 when HRM conducts a comprehensive review of the number and boundaries of polling districts. At that time, any change in the number of councillors, emerging communities of interest or different population growth trends, or other factors, may impact on the location of boundaries.

[47] The Board concludes that, for the purposes of the 2008 municipal election, the Cherry Brook/Lake Loon area should be incorporated into Polling District #4 (Cole Harbour). In this respect, the Board finds that the area depicted as the Cherry Brook/Lake Loon area on Map 5 attached to the staff report dated April 11, 2007 (including the area containing the Nova Scotia Home for Coloured Children) shall be transferred to Polling District #4. This proposed configuration for Polling District #4 (Cole Harbour) was developed by staff and the Boundary Action Reversal Committee at HRM's public meeting held on March 22, 2007. At the Board hearing, Ms. Johnston confirmed that Map 5 was supported by the Committee.

## CONCLUSION

[48] The Board approves the application. The number of polling districts is set at 23, each electing one councillor. The Board also approves the proposed changes to the polling district boundaries as described in HRM's application (the Bedford South, Hubley Lake and Middle/Upper Sackville areas). Further, it directs that the boundary between Polling Districts #3 and #4 be changed as provided in this decision. In all other respects, the boundaries of the polling districts are confirmed.

[49] 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 communities of interest and relative parity of voting power were canvassed in the application. It is to be noted that Mr. Garnet and Ms. Campbell proved to be very helpful in the Board's review of this matter.

[50] Further, HRM will undertake a comprehensive review of the number and boundaries of polling districts in 2010, in advance of the municipal election in 2012. The Board is confident that HRM will continue its practice of ensuring that a thorough public consultation process occurs as part of that upcoming review. In order to allow sufficient time for the application to be considered in advance of the 2012 municipal election, the application must be filed no later than December 31, 2010, unless directed otherwise by the Board.

[51] An Order will issue after the descriptions are finalized for the revised polling district boundaries. The Clerk of the Board will communicate with HRM about the preparation of new descriptions for the affected polling districts.

**DATED** at Halifax, Nova Scotia, this 22<sup>nd</sup> day of November, 2007.

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Roland A. Deveau

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Wayne D. Cochrane

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Murray E. Doehler