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Item No. 15.1.5
Halifax Regional Council
December 14, 2021

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 
Jacques Dubé, Chief Administrative Officer

DATE: November 2, 2021

SUBJECT: 2022 Municipal Polling District Boundary Review

ORIGIN

The Municipal Government Act requires that HRM undertake a district boundary review every eight (8) years. The Nova Scotia Utility and Review Board (the "Board") allowed HRM to undertake a modified review in 2015-2016, but it is expected that Council will be required to submit an application to the Board to confirm or to alter the number and boundaries of polling districts and the number of councillors by December 31, 2022.

LEGISLATIVE AUTHORITY

Section S. 364 of the *Halifax Regional Municipal Charter* states:

Part XVI of the *Municipal Government Act* applies to the Municipality. 2008, c.39, s364

Part XVI at S. 369 of the *Municipal Government Act* provides:

369(1) In the year 1999, and in the year 2006 and every eight years 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.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Conduct the 2022 District Boundary Review in two (2) phases: Phase I to determine the size of Council and its governance structure, and Phase II to set the specific district boundaries.

RECOMMENDATION CONTINUES ON PAGE 2

2. Designate the Executive Standing Committee (ESC) to undertake Phase I of the District Boundary Review and bring forward a recommendation to Regional Council on or before May 31, 2022, with regard to the number of Municipal Polling Districts appropriate to regional decision making, including a Community Council governance structure for the HRM; and
3. Direct the Chief Administrative Officer to return to Council with an Administrative Order before the end of February 2022 for its consideration to establish a committee of experts to conduct Phase II of the District Boundary Review in accordance with the discussion section of this staff report as follows:
 - a. the composition of the committee is to be as set out in the discussion section of this staff report and appointed by Regional Council, through Executive Standing Committee, in accordance with the Public Appointment Policy;
 - b. the committee is to report through Executive Standing Committee to Regional Council;
 - c. the committee is to be supported by appropriate staff resources and expertise;
 - d. members of the committee are to be given an honorarium as set out in the Administrative Order;
 - e. the committee's mandate is to include:
 - i. develop and undertake the public consultation necessary to ensure appropriate public input and consultation on the matter; and
 - ii. ensure that the boundaries are set in accordance with the legislative requirements and the guidance established by the Nova Scotia Utility and Review Board; and
 - f. the final report of the committee is to be submitted to the Executive Standing Committee to Regional Council no later than November 22, 2022.

BACKGROUND

The Municipal Government Act (MGA) requires municipal councils across Nova Scotia to review the number of councillors as well as the boundaries for municipal polling districts every 8 years. This review process culminates in Halifax Regional Council submitting an application to the Board to confirm or to alter the number and boundaries of polling districts and the number of councillors.

A district boundary review will be required in 2022: changes coming from this review will not come into effect until the 2024 Municipal Election.

As stated on the Board's website:

The... Board is required by the Municipal Government Act to conduct periodic reviews of the number and boundaries of municipal polling districts and the number of councillors. The NSUARB must consider the number of electors, relative parity of voting power, population density, community of interest and geographic size.

The last major district boundary review was undertaken in 2010-2011, prior to the 2012 municipal election. The Municipality applied to the Board to confirm the number of councillors and polling districts at 23, and to alter the boundaries of polling districts. The Board set the number of polling districts and councillors at 16.¹

A limited district boundary review was undertaken by Regional Council in 2014-15 prior to the 2016 municipal election, and only reviewed the boundaries of polling districts, not the number of councillors. This simplified application to confirm the number of councillors at 16 and to alter the boundaries of the polling districts was accepted by the Board because of the extensive consultation process for the municipal boundary review undertaken by the Municipality in 2010-2011.²

¹ Decision setting number of councillors at 16 at [2011 NSUARB 119](#). Decision on boundaries at [2011 NSUARB 196](#).

² Decision confirming the number of councillors and altering boundaries at [2015 NSUARB 148](#).

DISCUSSION

It is anticipated that before the end of 2021, the Board will send a notification indicating that a district boundary review will be required in 2022.

The process for conducting a district boundary review is governed by the MGA, as well as guidance developed from the Board through its previous decisions on district boundaries in Nova Scotia. In its 2004 decision respecting the Municipality's boundaries, the Board provided the following guidance for future applications:

It is the Board's view that the logical starting point under the Act is for Council to determine the desired number of councilors. Questions related to the distribution of polling districts should be addressed in a second stage.

Determining the size of Council involves the consideration of the desired style of Council, the governance structure of Council, and a determination of an effective and efficient number of councilors.

The style of government is a question which should not be decided by Council until adequate public consultation has occurred respecting the expectation of constituents.

However, the size of Council and its governance structure is a matter to be determined by Council in an informed debate after further consultation. On this issue, it would be helpful to consult senior staff and perhaps experts in the field.

Once the total number of councilors and polling districts is determined, the task becomes one of distributing the polling districts to satisfy the objectives listed in section 368(4) of the Act (at paragraphs 107-111).

On this basis, it is recommended that the district boundary review be undertaken in two distinct steps:

- 1) determining a recommendation on the number of municipal councillors/polling districts; and
- 2) determining the boundaries of polling districts

Phase I is intended to review the Council Governance and provide rationale for the final number of councilors and polling districts for the HRM. Once a recommendation on the size of Regional Council has been developed, Phase II will look at polling district boundaries across the municipality. This process requires public consultation and must consider the number of electors, relative parity of voting power, population density, community of interest and geographic size. Projected population and numbers for HRM districts are provided in Attachment one of this report.

The Board's jurisdiction to deal with the Municipality's application is limited to that which is set out in the legislation. The Board does not have jurisdiction to amend legislation or to consider proposals with respect to the number of councilors and polling districts, or the boundaries of the polling districts, that are not enabled under the current legislative framework.

The Board is enabled by Section 368 of the MGA as follows:

Powers of Board

(1) Upon application, the Board may, by order

- (a) divide or redivide a municipality into polling districts;*
- (b) amend the boundaries of any polling district;*
- (c) dissolve polling districts;*

- (d) determine that a town be divided into polling districts or cease to be divided into polling districts;*
- (e) determine the number of councillors for a municipality; and*
- (f) determine the date upon which the order takes effect.*

- (2) An application may be made by*
 - (a) the Minister;*
 - (b) a municipality; or*
 - (c) at least fifty electors of a municipality.*

(3) The Board may make an order granting the whole or part of an application, and may grant such further or other relief as the Board considers proper.

(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.

(5) In determining the number of councillors for a town, the Board shall consider the population and geographic size of the town.

Governance

The Board anticipates that Regional Council will take the lead on the District Boundary review and that it will provide an appropriate governance model to determine the number of districts and governance direction for the Municipality. The Board also expects that Regional Council's application to the Board will be grounded in appropriate and effective public consultation. In 2003-04, the Board criticized the Municipality's process for leaving the boundary review process to a committee of citizens. In 2010-11 the Board criticized the Municipality's public consultation and lack of citizen engagement. The balance of these two elements is integral to the boundary review process.

Two consultation and reporting phases are proposed for this review with governance of these phases outlined below. The final submission to the Board must be approved by Regional Council but the process can involve staff, other experts and community advisors.

PHASE 1

Phase I will require Council to consider the desired number of polling districts for the HRM. The Board has indicated that this should include an evaluation of what is required for effective political management, effective representation, and accountability.

As a part of the 2010/11 review a special committee of Council was struck. For the 2022 review staff is proposing that this work be undertaken by Executive Standing Committee.

The role of Executive Standing Committee will be:

- Advise on the strengths, challenges and opportunities of existing governance model for Regional Council,
- Provide direction and confirmation on public engagement activities as well as required information for evaluation,
- Participate in the public engagement sessions,
- Receive "what we heard" reports from phase one of public engagement and provide feedback prior to a formal submission to Regional Council,
- Provide a recommendation, based on public consultation, to Regional Council on the recommended number of polling districts on or before May 31, 2022.

The boundary review process is a significant undertaking by Council, the community and staff. As such, ESC may require additional meetings to provide adequate guidance for Phase I of the process. All members of Regional Council may attend standing committee meetings and may participate in discussions on the District Boundary review.

PHASE II

Phase Two must consider how to draw boundaries of the districts, based on the recommendations from Phase One. The distribution of polling districts must satisfy the objectives set out in the MGA, including the number of electors, relative parity of voting power, population density, communities of interest, and geographic size.

It is recommended that Council establish a committee of citizens supported by HRM staff for this portion of the boundary review. If directed, staff will return to Regional Council in early 2022 with a draft Administrative Order establishing this District Boundary Review Committee. It is recommended that the committee be comprised of a minimum of three, to a maximum of seven, members representing different perspectives in governance and planning. Experience in one or more of the following fields is recommended:

- a)urban planning;
- b)municipal governance;
- c)public policy;
- d)political science; and
- e)any other field Council determines relevant.

This committee will be tasked to actively participate in Phase Two of the District Boundary Review, both as collaborators in the public engagement process and analyzing responses and themes from the engagement. Once this analysis is complete, it is proposed that the committee, with support from HRM staff, will provide a Phase II recommendation report proposing polling district boundaries to Regional Council through ESC.

Regional Council will have the opportunity to consider the report and recommendations from the Committee on District Boundaries and approve the application to the Board prior to December 31, 2021.

The recommended process for this review is intended to provide an appropriate amount of oversight from Regional Council, while ensuring the public has an open and transparent engagement opportunity expected from the Board.

Hearing

After receiving the Municipality's application, the Board will set dates for a hearing to be held in 2023. At the hearing (which is open to the public), the Municipality will lead evidence through witnesses to support the application, and the processes it followed. In past HRM district boundary reviews, interveners have been given standing to participate in this process. In some hearings, the Board has also retained its own expert witness to provide testimony on municipal governance. There is also a public hearing to allow members of the public to comment, either in support of or in opposition to the application. The Board will then issue a written decision and Order giving effect to the approved number of councilors and polling districts, and the boundaries of the polling districts.

FINANCIAL IMPLICATIONS

An estimated cost for completing this level of consultation and reporting is \$100,000. This will be used for public consultation work and the development of What We Heard report from the project.

A third party is recommended for the public consultation process in this project.

The amount of \$100,000 has been included in the proposed 22/23 operational budget in A125 – 6399 (Elections – Contract Services)

RISK CONSIDERATION

A District Boundary Review is a legislatively required action.

COMMUNITY ENGAGEMENT

Two phases of public consultation will be required for this review. A third-party engagement partner will be required to complete this engagement.

For Phase One a public consultation plan will be developed in conjunction with Executive Standing Committee and staff. A report will be coming to ESC in early 2022 outlining considerations and suggested approaches for Phase I consultation.

Phase Two will follow a similar process for engagement plan development but will include the District Boundary Review Committee.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

A District Boundary Review must occur in 2022.

Council may strike a specific review committee for Phase One of the District Boundary Review rather than through Executive Standing Committee.

Council may adopt an alternative approach to conducting the required District Boundary Review for submission to the Nova Scotia Utility and Review Board prior to December 31, 2022.

ATTACHMENTS

No attachments.

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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