

**NOVA SCOTIA UTILITY AND REVIEW BOARD**

**IN THE MATTER OF the REGION OF WINDSOR AND WEST HANTS MUNICIPALITY  
ACT**

- and -

**IN THE MATTER OF AN APPLICATION** to determine the number of councillors and the boundaries of the polling districts for the new Regional Municipality

**BEFORE:** Roland A. Deveau, Q.C., Vice Chair  
Roberta J. Clarke, Q.C., Member  
Stephen T. McGrath, LL.B., Member

**APPLICANT:** **CO-ORDINATOR FOR REGION OF WINDSOR AND  
WEST HANTS MUNICIPALITY**  
Kevin Latimer, Q.C.

**FORMAL  
INTERVENOR:** **THINK HANTSPORT INNOVATIVE DEVELOPMENT  
ASSOCIATION**  
Toni Heatley, Jane Davis and Sally Zamora

**HEARING DATE:** June 24 and 25, 2019

**DECISION DATE:** **August 19, 2019**

**DECISION:** **Application approved for 11 polling districts, each  
electing one councillor.**

Table of Contents

I	INTRODUCTION .....	3
II	BACKGROUND .....	4
III	PROCEEDINGS .....	6
IV	STATUTORY PROVISIONS .....	8
V	EVIDENCE.....	10
	(i) Evidence of the Co-ordinator .....	10
	(ii) Evidence of THIDA .....	16
	(iii) Letters of comment.....	21
VI	ANALYSIS AND FINDINGS.....	22
	(i) Board’s Jurisdiction .....	22
	(ii) Public consultation.....	24
	(iii) Hantsport.....	29
	(iv) Council size .....	34
	(v) Polling district boundaries.....	38
	(vi) Filing of digital maps of polling districts .....	39
	(vii) 2022 Municipal Boundary Review .....	39
VII	CONCLUSION.....	40

## I INTRODUCTION

[1] In October 2018, the Legislature passed the *Region of Windsor and West Hants Municipality Act* which will amalgamate 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. Under the *Act*, Cabinet appointed Kevin Latimer, Q.C., as the Co-ordinator of the Regional Municipality. The *Act* also provides for the establishment of a Co-ordinating Committee consisting of the Mayor and Deputy Mayor of Windsor, the Warden and Deputy Warden of West Hants, and the Co-ordinator.

[2] Section 10(1) of the *Act* provides that the Co-ordinator must apply to the Nova Scotia Utility and Review 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. to conduct a process to assist the Committee in determining an appropriate governance structure for the new Regional Municipality. The Committee also engaged Dr. Jamie Baxter to conduct a study about the formation of regional governance in Nova Scotia.

[3] Stantec Consulting'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 Council of the Regional Municipality be comprised of a Mayor, elected at large, and 11 councillors elected from 11 polling districts, as proposed in its Report.

[4] The Co-ordinating Committee accepted Stantec's recommendations, and the Co-ordinator filed an application with the Board, to establish the council size and the polling district boundaries in accordance with Stantec's Report. The Board held a public

hearing in West Hants Municipal Council Chambers at Windsor, Nova Scotia. The Board heard evidence from the Co-ordinator and from the Think Hantsport Innovative Development Association (THIDA), which was granted formal standing as an Intervenor in the matter.

[5] Following its review of the evidence and submissions, the Board sets the number of councillors and polling districts at 11 and establishes the boundaries of the polling districts as set out in the Stantec Report.

## **II BACKGROUND**

[6] The new Regional Municipality will be the fourth created in Nova Scotia (the others being Halifax Regional Municipality, Cape Breton Regional Municipality and Region of Queens Municipality), and the first in 25 years. In his opening statement, Mr. Latimer, the Co-ordinator, emphasized that while some regional municipalities were created through legislative edict in the past, the Region of Windsor and West Hants Municipality is different. He described how the existing municipalities, through their elected leaders, and sparked very much by the citizens themselves, reflected on their changing circumstances and concluded that they wanted to build something different – something that would advance the best interests of both municipalities by working together.

[7] The Board is aware that there have been citizens in these communities who have been working towards a new municipality for some time. In 2016, the Board received an application from citizens in both Windsor and West Hants to amalgamate the municipalities (Matter M07325). The application was brought under s. 358(c) of the

*Municipal Government Act*, S.N.S. 1998, c. 18 (*MGA*) and was supported by petitions gathered by the Avon Region Citizens Coalition, which were signed by more than 2,000 electors in West Hants and more than 500 electors in Windsor. A resolution of the Windsor Town Council also supported the application.

[8] In February 2017, the application was adjourned when West Hants and Windsor entered into a Memorandum of Understanding. Although the municipalities had different views about amalgamating Windsor and West Hants, the MOU reflected their desire to work collaboratively to strengthen their greater community. The Board granted a further adjournment in the spring of 2018 following the initiation of a municipal modernization project, in association with the Province, “to develop a new model for regional governance and improved municipal cooperation and collaboration.” Windsor and West Hants were to pilot this initiative. Ultimately, the application was withdrawn in October 2018 when the Province passed the *Act*.

[9] The present application is to set the number of councillors and the boundaries of the polling districts in the new Regional Municipality. In past decisions dealing with such matters, the Board has noted that the style of the council desired by citizens influences the determination of council size. This involves questions about how much accessibility to their councillors citizens want, and a choice between what the Board has described as a board of management style or a board of directors style of governance. The number of councillors also affects the effectiveness and efficiency of a council, and the extent to which it is able to address matters from many viewpoints and perspectives. The definition of boundaries within a municipality, while balancing the

voting power of each elector, tends to highlight commonalities and differences within individual communities within a municipal unit.

[10] Establishing the number of councillors and boundaries can sometimes be divisive, but the Co-ordinator, in his remarks to the Board, emphasized the collaborative nature of the process leading to the application now before the Board. He discussed the consultation efforts undertaken throughout West Hants and Windsor in which citizens were invited to "Have your say!". The Co-ordinator also emphasized that the Co-ordinating Committee was designed by the Legislature to be representative of the municipalities involved and noted that the Co-ordinator only had a vote in decisions of the Co-ordinating Committee if there was a tie. In this way, he said, the municipalities were encouraged to find ways to communicate and work together, and to find solutions that were in the best interests of both – or someone else would cast a vote to make the decision. The Co-ordinator advised the Board that he never had to cast that vote, as individual members of the Committee found a way to set aside any individual or parochial interests or agendas, and made unanimous decisions that found ways to move forward while keeping the bigger picture in mind.

[11] It is in this spirit of cooperation and leadership that the present application was unanimously supported by all members of the Co-ordinating Committee.

### **III PROCEEDINGS**

[12] In the application, the Co-ordinator outlined the process leading to the application:

- (a) The Act requires the Co-ordinator to make application to the Board to determine the number of councillors and the boundaries of the polling districts for the new Regional Municipality;

- (b) At the request of the Co-ordinating Committee, Stantec Consulting Ltd. ("Stantec") conducted a governance review process to assist the Committee in determining an appropriate governance structure for the new Regional Municipality. Stantec's review included consultations and analysis with respect to:
  - i. Phase 1 - number of councillors; and
  - ii. Phase 2 - boundaries and polling districts.
- (c) The Co-ordinating Committee also commissioned a study by Dr. Jamie Baxter with respect to the formation of regional governance in Nova Scotia. The purpose of the report was to provide background context and analysis with respect to institutional design of the new regional government.
- (d) Based on its review, Stantec ultimately recommended the Council of the Regional Municipality of Windsor and West Hants should consist of a Mayor, elected at large and 11 Councillors elected from districts generally bounded as illustrated in Stantec's final report;
- (e) Following consideration of Dr. Baxter's study and Stantec's report the Co-ordinating Committee unanimously passed a motion on April 15, 2019 adopting Stantec's recommendation that the council of the new Regional Municipality should consist of a Mayor, elected at large and 11 Councillors elected from districts generally configured as proposed in Stantec's final report.

[Stantec Report, Exhibit W-1, pp. 4-5]

[13] The Board scheduled the public hearing on June 24 and 25, 2019, to be held in the West Hants Municipal Council Chambers at Windsor, Nova Scotia. The Notice of Hearing was published in the Chronicle Herald on May 11 and 15, 2019, and in the Valley Journal Advertiser on May 14 and 21, 2019.

[14] On May 23, 2019, THIDA filed a letter with the Board requesting formal standing as an Intervenor. It opposed the Co-ordinator's application with respect to the proposed boundaries in the area of the community of Hantsport. THIDA was concerned that the proposed polling district boundaries would not reflect Hantsport's community of interest and would threaten the community's effective representation on Council. In a letter dated May 28, 2019, the Board granted THIDA formal standing at the hearing.

[15] Mr. Latimer, the Co-ordinator, appeared on his own behalf at the public hearing, while Toni Heatley and Jane Davis acted as agents for THIDA. A scheduled

evening session was cancelled when no one registered to speak. The Board received eight letters of comment.

#### **IV STATUTORY PROVISIONS**

[16] The *Region of Windsor and West Hants Municipality Act*, S.N.S. 2018, c. 26, was enacted in October 2018. The statute amalgamates the Municipality and the Town into a Regional Municipality called the Region of Windsor and West Hants Municipality, until a new name is later chosen under s. 11. The new Regional Municipality is to come into effect on April 1, 2020.

[17] The *Act* provides for the appointment of a Co-ordinator and the establishment of a Co-ordinating Committee to deal with the transition to the Regional Municipality:

**Co-ordinator**

**4 (1)** The Governor in Council shall appoint a person to be the Co-ordinator of the Regional Municipality for such term as the Governor in Council determines.

**(2)** The Co-ordinator has all the powers of a commissioner appointed pursuant to the *Public Inquiries Act*.

**Co-ordinating Committee**

**5 (1)** A Co-ordinating Committee is established consisting of the Mayor and Deputy Mayor of Windsor, the Warden and Deputy Warden of West Hants, and the Co-ordinator.

[18] Cabinet appointed Mr. Latimer as the Co-ordinator of the Regional Municipality.

[19] The ordinary polling day for the first election of the Mayor and councillors is set under the *Act* as Saturday, March 7, 2020, with nominations to be filed with the returning officer by February 12, 2020. To that end, the Co-ordinator must apply to the Board to determine the number of councillors and the polling district boundaries:



**Council**

**10 (1)** The Co-ordinator shall apply to the Nova Scotia Utility and Review Board for a determination of, and the Board shall determine, the number of councillors and the boundaries of the polling districts in the Regional Municipality.

[20] The Board has powers under the *Municipal Government Act* to determine the number of councillors and to set the boundaries of polling districts:

**Powers of Board**

- 368 (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.

**Study of polling districts required**

**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. [Emphasis added]

## **V EVIDENCE**

### **(i) Evidence of the Co-ordinator**

[21] The Co-ordinator called four witnesses, namely Louis Coutinho, CAO for the Town of Windsor; Martin Laycock, CAO for the Municipality of the District of West Hants; John Heseltine; and Dr. Baxter. John Heseltine is a consultant with Stantec. He was qualified as an expert witness, able to provide opinion evidence respecting municipal boundary reviews. Dr. Baxter was also qualified as an expert in the field of institutional design.

[22] There are at present 10 councillors (and 10 corresponding polling districts) in the Municipality, one of whom is elected as the Warden by his or her peers. There are at present four councillors elected at large in the Town, plus the Mayor. According to the most recent 2016 Census, the population of the Town is 3,648. The population of the Municipality is 15,368.

[23] The application requests that the number of councillors for the new Regional Municipality be set at 11 councillors, elected from 11 polling districts, as proposed in the Stantec Report. The following table (which was compiled by the Board based on the application) shows the estimated number of electors in each proposed polling district, based on the number of eligible electors in the last municipal election which was held on October 15, 2016:

<b>Table 1 Polling Districts (2016)</b>				
<b>Polling District</b>	<b>Area Km<sup>2</sup></b>	<b>Number of Electors</b>	<b>Variation from Avg. Number of Electors</b>	
			<b>#</b>	<b>%</b>
1 Walton-Centre Burlington	215.38	1,216	(174)	(12.5%)
2 Cogmagun - Avondale	202.00	1,252	(138)	(9.9%)
3 Newport Corner - Sweets Corner	65.7	1,382	(8)	(0.6%)
4 St. Croix - Ellershouse	251.63	1,325	(65)	(4.7%)
5 Wentworth Creek - Three Mile Plains	58.81	1,409	19	1.4%
6 Panuke Lake - Garlands Crossing	126.54	1,489	99	7.1%
7 Vaughan - Upper Falmouth	353.63	1,500	110	7.9%
8 Hantsport - Mount Denson	38.36	1,524	134	9.6%
9 Falmouth	12.97	1,324	(66)	(4.8%)
10 North Windsor	5.50	1,358	(32)	(2.3%)
11 South Windsor	5.25	1,511	121	8.7%

Total number of electors: 15,290  
 Number of councillors: 11 (plus Mayor)  
 Average number of electors per councillor: 1,390

[24] Two Stantec Reports, the initial report on Council Size dated February 21, 2019, and the final Report on Council Size and Polling District Boundaries dated April 10, 2019, were filed in this proceeding. Unless otherwise indicated, all references to the Stantec Report in this Decision relate to the latter final Report.

[25] Mr. Heseltine outlined the consultation process followed in the conduct of Stantec's study and the preparation of its Report. Stantec followed a two-step process to conduct its study. Adopting a methodology recommended by the Board in its prior decisions, the first step was to determine the appropriate number of councillors to serve the Regional Municipality, followed by the second phase of the process of determining appropriate polling district boundaries.

[26] Both phases of Stantec's study consisted of a series of public meetings and a survey. Stantec also conducted interviews with current Council members from the Town and Municipality. Notices for the public meetings were published on a website maintained by the Co-ordinating Committee and on the websites maintained by the Town

and Municipality. For each phase of the study, a total of five notices were also placed in publications circulating in the municipalities: the Advertiser Journal and the Valley Harvester. The public meetings were also listed at the end of the online survey questionnaires.

[27] The surveys were published online and made available on paper as well, although the paper versions of the survey for the first phase of the study were not produced until concerns were raised that not all residents were able to access the online surveys. Paper copies of these surveys were made available at the public meetings, the Windsor Town Hall and the West Hants Municipal Building. In some cases, they were delivered door to door.

[28] For Phase 1 of the study, Stantec held five public meetings in different locations and on different dates as follows:

<b>Location</b>	<b>Dates</b>
Avondale Community Hall	Tuesday, January 29, 2019
Brooklyn Civic Centre	Wednesday, January 30, 2019
Southwest Hants Fire Hall, Vaughn	Thursday, January 31, 2019
Windsor Community Centre	Tuesday, February 5, 2019
Falmouth Community Hall	Thursday, February 7, 2019

Stantec estimates that 86 residents attended these meetings although some participated in more than one session.

[29] For the benefit of those who attended these public sessions, Stantec prepared posters with information about governance and the council size review. Attendees were encouraged to read these posters and Mr. Heseltine was available to assist with questions. He also made a formal presentation at each meeting and provided the audience with an opportunity to ask questions or make comments. Stantec included a summary of concerns raised during these meetings in the Stantec Report. Stantec also

noted that it received one written submission during the Phase 1 public meetings from the Avon Region Citizens Coalition.

[30] The Phase 1 survey was posted on January 17, 2019 and remained open for responses until February 13, 2019. Stantec received 748 survey responses (most of which were online responses). The Stantec Report noted:

Notwithstanding concerns with Internet access in rural areas expressed at public meetings, responses were also well-distributed. Of 51 named communities in West Hants, at least one online response was received from 50 based on responses to Question 5.

[Exhibit W-1, p. 106]

[31] Stantec analyzed the survey results and determined that most of the respondents preferred a council size (including a mayor) of between 10 and 12. A council size of 10 was preferred by the largest number of respondents (23.2%), but a council size of 12 was preferred by nearly as many (21.8%). A council size of 11 was preferred by 16.5% of respondents, and was the third most popular choice. Stantec observed that rural residents tended to prefer larger council sizes than residents who lived in more suburban and urban areas, but Stantec did not find the differences to be particularly pronounced.

[32] The Stantec Report noted that the survey that was conducted was not a poll and the method of distributing the survey could not obtain a representative sample.

However, the Stantec Report also notes:

Council sizes from ten through twelve were clearly favoured by respondents to our survey of residents. Even in the Town of Windsor, which had the largest constituency preferring a smaller council, nearly half of residents expressed preferences between ten and twelve, and the majority (54.3%) favour a council of ten or more. While there are very clear shortcomings with the representativeness of the survey, all significant sub-groups that we have examined favoured a council in the same range. In areas outside of Windsor the majority generally favoured a larger council.

[Exhibit W-1, p. 112]

[33] A council of 9 or 11 councillors, plus a mayor, would produce a council size of either 10 or 12, so Stantec therefore recommended that 9- and 11- district scenarios be assessed in Phase 2 of the Study. Stantec prepared scenario maps showing a configuration for 9 and 11 districts in the new Regional Municipality and used these in its Phase 2 public consultation.

[34] For Phase 2 of the study, Stantec held five public meetings in different locations and on different dates as follows:

<b>Location</b>	<b>Dates</b>
Three Mile Plains	Tuesday, March 5, 2019
Hantsport	Wednesday, March 6, 2019
Summerville	Thursday, March 7, 2019
Ardoise	Wednesday, March 13, 2019
Windsor	Thursday, March 14, 2019

The meetings were conducted in a fashion similar to Phase 1. Stantec estimates that 56 residents attended these meetings although some participated in more than one session.

[35] The Phase 2 survey was posted on February 28, 2019 and remained open for responses until March 21, 2019. These surveys incorporated maps of the 9- and 11- district scenarios. Additionally, the municipalities posted large format maps in 42 publicly accessible locations in the Town and Municipality to assist residents with their responses to the survey and their participation in the public meetings. Stantec received 883 responses to the Phase 2 survey. Stantec observed that there was a disproportionate number of responses to the survey from residents in some areas, which it attributed to the door to door delivery of the survey by the councillor for the current District #3.

[36] Stantec analysed the survey results and found that respondents most frequently preferred the 11- district scenario using the boundaries developed by Stantec (49.1%). A smaller number of respondents (35.2%) preferred the 9- district scenario. A

minority of respondents preferred an 11- district scenario or a 9- district scenario, but did not like the boundaries proposed by Stantec. A small number of residents who responded to the survey (6.2%) rejected both scenarios. Stantec observed that, if the results from areas where there were a disproportionate number of survey responses provided were excluded, there was “essentially a dead heat” between residents favoring 9 districts and residents favoring 11 districts.

[37] After the Phase 2 public meetings, Mr. Heseltine interviewed 13 of the 15 council representatives of the two municipalities and the chief administrative officers of both. These interviews were loosely structured around the questions in the Phase 2 survey and the municipal representatives who were interviewed were asked about their preference for a 9- or 11- district Regional Municipality and any suggestions they had about boundary improvements. Based on suggested boundary changes, Stantec made specific changes to realign some of the boundaries in its scenarios. The Stantec Report notes:

We are pleased with the results of these changes. In addition to responding to suggestions from council members and residents, the resulting boundaries are generally clearer and fewer communities are divided.

[Exhibit W-1, p. 127]

[38] The revised 9- district and 11- district scenarios were reviewed with members of both municipal councils on April 1, 2019.

[39] The final recommendation in the Stantec Report is:

Taking into account the foregoing considerations, we recommend the Council of the Regional Municipality of Windsor and West Hants should consist of a Mayor elected at large and eleven Councillors elected from districts generally bounded as illustrated in the April 10, 2019, Windsor West-Hants Governance Review Council Size and Polling District Boundaries Report.

[Exhibit W-1, p. 135]

**(ii) Evidence of THIDA**

[40] As noted earlier in this Decision, the Board granted formal standing to THIDA to participate as an Intervenor in this matter. THIDA is concerned that the proposed polling district boundaries do not reflect the appropriate community of interest for the community of Hantsport. Its concern was summarized in THIDA's request for formal standing. It alleged:

... that without effective representation, the prosperity of Hantsport is at risk. We believe that to have effective representation, Hantsport must retain its community of interest designation and current boundaries. As intervenors, we will present evidence to support this.

[Heatley email, May 24, 2019]

[41] THIDA is a not for profit society in Nova Scotia, established in 2014. Its mandate and purpose is "to incubate and develop Hantsport-centric ideas and projects and be an advocate for its prosperity". Membership is open to anyone who supports the mandate.

[42] As noted at the hearing, THIDA was involved in a prior proceeding before the Board respecting the dissolution of the Town of Hantsport. In its Decision dated June 10, 2015, the Board ordered the dissolution of the Town, 2015 NSUARB 154 (Matter M06209). The Town was dissolved into the Municipality of the District of West Hants, effective July 1, 2015.

[43] Jane Davis, the President of THIDA, testified in response to cross-examination by Mr. Latimer and questions by the Board. She said that THIDA is an incorporated society. Its membership was around 65 persons at the time of the application to dissolve the Town of Hantsport. Membership is currently about 24 persons. She described THIDA as "strong advocates for Hantsport".



[44] Ms. Davis acknowledged that four of the letters of comment to the Board came from supporters of THIDA or their spouses. She further acknowledged that the letter from a Hantsport resident who supported the Co-ordinator's recommendation represented a different point of view than THIDA's, although she said it did not illustrate a broad consensus.

[45] THIDA proposed that the Windsor/West Hants region should have 12 electoral districts, rather than 9 or 11, one of which would be Hantsport using its current boundaries. In response to questions from the Board, Ms. Davis suggested the 12 districts could be the 10 districts currently in West Hants (one of which is Hantsport alone) and two from the Town of Windsor.

[46] Ms. Davis said THIDA agreed with the Board's 2016 West Hants boundary review Decision which retained Hantsport as a separate district, although not permanently. Instead, she suggested that any change should only happen if there were a significant change, which had not yet occurred.

[47] THIDA's written evidence was intended to support its key arguments that:

- Hantsport was found, in the 2016 West Hants boundary review to be, and remains, a unique community of interest;
- The terms of reference for the Request for Proposals (RFP) for the boundary review were flawed due to: over-emphasis on voter parity; a failure to inform Hantsport residents that its status as a community of interest was in jeopardy; and, the minimal scope of advertising and consultation;
- The surveys conducted were inadequate in content and accessibility;
- The reports from Stantec were deficient and/or inaccurate regarding Hantsport, and;
- The Hantsport Area Advisory Committee representation has been ineffectual.

[48] THIDA provided evidence of the tax rate paid by residents of Hantsport, including an area rate for various services, separate from the general rate paid by other

residents of West Hants. It noted that, from 1895 to 2015, Hantsport had enjoyed status as an incorporated town, and has “urban” density, compared to other areas of West Hants, as well as the current Town of Windsor. It stated that 19% of the commercial assessment roll of West Hants is in Hantsport.

[49] THIDA also pointed out that a portion of the area rate for recreation supports many recreational facilities, including the Hantsport Memorial Community Centre. In addition, the community’s sewer and water services are not shared by any other area of West Hants.

[50] THIDA described Hantsport as having a “defined ‘downtown’” with roads owned and maintained by West Hants out of the area rate, as well as its own distinct municipal planning documents.

[51] Finally, THIDA provided a portion of a Statistics Canada map which showed that, geographically, Hantsport is naturally divided by the Avon and Halfway Rivers from the remainder of West Hants, and by the political boundary of Kings County on the west.

[52] Regarding the RFP, which it filed, THIDA stated that three options were to be provided, and that only a  $\pm 10\%$  variance in the targeted relative parity of voting power was referenced, rather than the exceptional variance of  $\pm 25\%$ . Further, the RFP stated that “communities of interest, including the former Town of Hantsport and the present Town of Windsor” were to be taken into consideration.

[53] Ms. Davis said that if Hantsport were one of 12 districts, she had roughly calculated the variance from the average number of electors per district to be -27% for the Hantsport district, which is very close to the existing -26% variance from the 2016 boundary review, and less than the -33% in the 11- district scenario and -46% in the 9-

district scenario. While she agreed on cross-examination that all voters should be treated equally, she said there are exceptions.

[54] THIDA's evidence included excerpts from the report of the 2019 Nova Scotia Electoral Boundaries Commission review which recommended eight provincial electoral districts which exceeded the  $\pm 25\%$  variance due to exceptional circumstances. One of these districts was Queens, based on "political boundaries", a feature which THIDA said applied to Hantsport.

[55] THIDA filed copies of advertising which did not indicate that Hantsport's status as a community of interest was to be discussed in the public consultation. THIDA also suggested that no local advertising was done in Hantsport. According to THIDA, some meetings were on very short notice, and online advertising was ineffective, due to lack of internet services in some areas of the Municipality.

[56] The Phase 1 survey conducted by Stantec did not allow residents of the former Town of Hantsport to indicate they had voted in municipal council elections prior to 2016. THIDA also asserted that the survey was deficient in not mentioning that Hantsport is currently an electoral district, and in not explaining that the mayor would be elected at large and not representing a district.

[57] Ms. Davis agreed that she was able to keep informed about the boundary review and attend and participate in consultation meetings. Ms. Davis suggested the low turnout at the Hantsport meeting was the result of a lack of understanding of the process, the ambiguity surrounding the position of mayor, and the lack of advertising the potential loss of Hantsport's status as a single district. She said that people did not know what was

at stake. However, Ms. Davis confirmed that THIDA has attempted to “get the word out” about the Hantsport meeting.

[58] THIDA had several concerns about the Stantec Report, suggesting it was biased against Hantsport as a community of interest, and gave undue weight to voter parity. Further, it said that Stantec was in error in stating that Hantsport was separated from other areas of West Hants by Highway 101, and that Hants Border is in West Hants. In addition, THIDA said that Bishopville and Hants Border, two areas which are included in the proposed District 8 which includes Hantsport, were not, as Stantec reported, exclusively accessed through Hantsport.

[59] Ms. Davis agreed that based on the number of voters, Hantsport would still have the most voters in its district under either the 9- or 11- district scenarios. She also agreed that leaving Hantsport as a district would give it greater voting power but she did not believe that voter parity should play the only role in deciding the number of districts and boundaries.

[60] In response to questions from the Board, Ms. Davis agreed that although she had said that the rural areas which would be part of the new district containing Hantsport had “nothing to do with Hantsport”, the residents of those areas shop or work in Hantsport or use facilities there. Her point was that they do not share the area rates, services or planning documents.

[61] Ms. Davis acknowledged that some communities within the new region were being combined and others divided in the scenarios presented in the Stantec Report; however, she observed that the Town of Windsor, while divided into two districts, was maintaining its “town boundaries”. Ms. Davis did not agree that Hantsport would

have a stronger voice under either scenario despite having the majority of electors in the district.

[62] Ms. Davis said the elected councillor would have divided loyalties and, therefore, Hantsport would not have effective representation. She stated that the councillor would ignore views. She preferred Hantsport to have a solely dedicated councillor. At the same time, it was acknowledged that the current councillor did not attend the Stantec information session held with the councillors from both municipal units, nor did he participate in the individual interviews done by Mr. Heseltine, although this could have been accommodated by phone.

[63] In Ms. Davis's view, the change to regional governance will not affect Hantsport as it is already part of a region; further she said that leaving Hantsport alone will not hinder the new Regional Municipality.

**(iii) Letters of comment**

[64] Eight letters of comment were filed in this matter; five of them related to concerns addressed by THIDA. Of those five letters, only one supported the recommended number of councillors and the district boundaries. The writer said it would be unfair for Hantsport with fewer people than other districts to make up one district. The other four letters relating to Hantsport supported the continuation of Hantsport as a single district, based mainly on the concept of community of interest.

[65] Of the other three letters, one writer expressed a wish to eliminate districts entirely and to be able to vote for 11 councillors at large (the Board notes this is not permitted under the *MGA*). The other two letters suggested that what one writer described as "the Town/County divide" would be perpetuated under the recommended

boundaries. The writers both suggested that Windsor should not merely be divided into two districts but should be re-configured to take in suburban areas abutting Windsor. This would eliminate the “divide” and promote integration of Windsor and the more rural areas. Both writers supported a 9- district model.

[66] The Board appreciates the interest in municipal governance which is apparent from the letters of comment. They contained comments which Mr. Latimer and the Board raised during the hearing with witnesses.

## VI ANALYSIS AND FINDINGS

### (i) Board’s Jurisdiction

[67] Section 368(4) of the *MGA* 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.

[68] 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 (*HRM Decision*). 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.

[69] 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.

[70] The Co-ordinator's application requests approval for 11 polling districts, each electing one councillor. The application notes that, in addition, there will also be a Mayor.

[71] Currently, the Town of Windsor has a Mayor, while the Municipality of the District of West Hants has a Warden. In the mayoral model (including for the current Town of Windsor), the Mayor is elected at large by the electors and sits as an additional member of council. Under the warden model (including for the current Municipality) one of the newly elected councillors is elected by his or her fellow councillors (from amongst themselves), following a general municipal election.

[72] As noted earlier in this Decision, a new Regional Municipality is being established under the *Region of Windsor and West Hants Municipality Act*. After it becomes effective April 1, 2020, the new Regional Municipality will be governed under the relevant provisions of the new statute and the provisions of the *Municipal Government Act*, as they relate to regional municipalities. In both cases, the statutory provisions require, at least impliedly, that the council of a regional municipality be chaired by a mayor.

[73] It was confirmed at the hearing that the Board is not being asked to approve the mayoral model for the new Regional Municipality.

[74] For the purposes of the *MGA*, 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. The Board's review under s. 368 of the *MGA* is limited to the determination of the appropriate number of councillors and polling districts, as well as approving polling district boundaries.

**(ii) Public consultation**

[75] THIDA has submitted that there were various flaws in Stantec's public consultation process.

[76] Among other things, THIDA alleged that the terms of reference for the Request for Proposals (RFP) for the boundary review were flawed because they placed too much emphasis on voter parity and failed to inform residents of Hantsport that its status as a community of interest was in jeopardy. THIDA said that the advertising and the scope of the public consultation process were deficient in that no local advertising was done in Hantsport, that some meetings were held on very short notice, and the online advertising was ineffective due to the lack of internet services in some areas of the municipality.

[77] THIDA also had concerns with the content of the survey, stating (correctly) that the Phase 1 survey did not allow residents of the former Town of Hantsport to indicate they had voted in municipal council elections prior to 2016. It also asserted that the survey was deficient in not mentioning that Hantsport is currently an electoral district, and in failing to explain that the mayor would be elected at large and not be representing a district. On the latter point, THIDA said that the questions on the survey led to confusion over whether or not the various council size options included the mayor, who is to be elected at large.



[78] In its *HRM* Decision, the Board outlined the importance of public consultation in municipal boundary reviews and the two-phased process to be followed:

#### **VIII GUIDANCE FOR FUTURE APPLICATIONS**

[106] The Board feels that it would be useful to provide some guidance to HRM and other municipalities with respect to future applications pursuant to ss. 368 and 369 of the Act. ...

##### **A. Number of Councillors and Polling Districts**

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

[108] 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 councillors.

[109] 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.

[110] 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.

[111] Once the total number of councillors and polling districts is determined, the task becomes one of distributing the polling districts to satisfy the objectives listed in s. 368(4) of the Act.

##### **E. Public Consultation**

[115] Just as with determining the desired number of districts, public consultation is essential to a successful process of setting boundaries. Ideally, municipalities should do this in two phases: a first set of public consultations and hearings prior to setting tentative district boundaries, and then another round of public consultations once tentative boundaries have been determined. ...

[*HRM* Decision, paras. 106-111, and para. 115]

[79] The Board does not dictate how municipal bodies are to conduct their public consultation on such matters. It recognizes that each municipality is different in terms of its accepted practice and the expectations of its residents. In its Decision respecting the *Town of Canso*, 2007 NSUARB 68, the Board stated as follows with respect to public consultation on municipal boundary reviews:

[19] In the Board's opinion, public consultation is an inherent component of the study to be conducted by Council pursuant to s. 369 of the Act. In the view of the Board, the

danger of limiting or not actively canvassing the public's views on such issues is that members of the public may intervene in the Board hearing, and raise issues which may have been better addressed during the consultation process (which occurred in this instance). If the public's concerns are legitimate or persuasive, and no avenue has been afforded for those concerns to be considered by Council, it could lead to an application by Council being referred back for further deliberation, or varied by the Board.

[20] The nature and extent of the study to be conducted by Council is within its discretion, depending on the circumstances existing in each case. However, the consultation should be of a type and degree which allows members of the public an opportunity to express their views on the size of their council, on whether a town [municipality] should be divided into wards, and upon the location of boundaries for town wards or municipal polling districts, should that be applicable. The Board notes that most municipal units already incorporate some form of public consultation into their study. [Emphasis added]

[*Canso* Decision, paras. 19-20]

[80] In the present matter, the Board considers that the public consultation carried out by Stantec, on behalf of the Co-ordinating Committee, was extensive and appropriate. The Co-ordinating Committee engaged Stantec to conduct the public consultation, and also provided resources to Mr. Heseltine to assist him in booking the public meeting locations, arranging the advertising and distribution of meeting notices, and posting the online survey on the respective town and municipal websites, as well as on the Co-ordinating Committee's new website.

[81] First, the Co-ordinating Committee outsourced this important task to a neutral outside party. In conducting its own process, Stantec could take an objective view of the public input and make appropriate recommendations on council size and polling district boundaries.

[82] Second, consistent with the guidelines outlined by the Board as described above, Stantec carried out its study in the two-phased approach recommended by the Board: i.e., Phase 1 to determine the appropriate council size and Phase 2 to determine the polling district boundaries.

[83] Third, each phase of Stantec's study consisted of a series of five public meetings and an online survey. To address a deficiency discovered early in the process, Stantec and municipal staff also arranged for hard copies of the survey to be available to residents. The surveys were made available at the public meetings, the Windsor Town Hall and the West Hants Municipal Building. Some were also delivered door to door by local councillors.

[84] Fourth, notices for the public meetings were posted on the Co-ordinating Committee's new website and on the town and municipal websites. Moreover, notices were published in the Advertiser Journal and in the Valley Harvester. The details of the public meetings were also listed at the end of the survey questionnaires. Also, during Phase 2, notices relating to the 9- and 11- district scenarios were distributed in 42 public locations in communities throughout the region, inviting participation in the public meetings and on the survey.

[85] In the Board's view, the success of the circulation of the surveys and advertisement of the public meetings is demonstrated by the response to each of these components of the consultation. Stantec estimated that 86 residents attended the Phase 1 meetings and 56 residents attended the Phase 2 meetings, although some participated in more than one session in each phase. With respect to the survey, each questionnaire remained open for about three weeks, which the Board considers provided ample time for members of the public who wished to share their views. In Phase 1, Stantec received 748 survey responses (most of which were online responses). Stantec received 883 responses to the Phase 2 survey.

[86] Mr. Heseltine noted during the hearing that the number of responses to the survey, and attendance at the public meetings, was the best response he had seen in his prior municipal boundary engagements. This is also consistent with the Board's experience in its municipal boundary reviews.

[87] Further, Stantec's engagement with the public during the meetings was meaningful. Stantec prepared posters with information about governance and the council size review for those who attended the sessions. Attendees were encouraged to read these posters and Mr. Heseltine was available to assist with inquiries. This was followed by a formal presentation at each meeting, as well as a question and answer period.

[88] Finally, the Board is mindful that the above public consultation process had to be carried out in a timeline that was somewhat compressed, considering the overall timeline set out in the *Act* and the time needed by the Co-ordinator and the Committee to ensure the orderly conduct of the first municipal election in March 2020, and the transition to the new Regional Municipality, which is to take effect April 1, 2020.

[89] In hindsight, Stantec and municipal staff supporting Mr. Heseltine would possibly have made some different choices regarding scheduling and advertising of the public meetings, or with the content and distribution of the survey. However, the overall process was comprehensive and accessible. In the Board's view, any of the deficiencies noted by THIDA were minor in nature and not material to the conduct of the exercise.

[90] THIDA alleged that the survey created confusion over whether the position of Mayor was included in the council size options identified during Phase 1. On this point, the Board accepts the testimony of Mr. Heseltine that he received no comments or complaints about this issue. Further, if any confusion arose during Phase 1, it was clearly

put to rest in Phase 2, which outlined the council size options, with accompanying maps of the polling districts.

[91] Taking all of the above into account, the Board considers that THIDA's criticism of the public consultation process was unfounded. The consultation process implemented by Stantec, as supported by the Co-Ordinating Committee and staff, was both reasonable and appropriate in the circumstances.

**(iii) Hantsport**

[92] THIDA submitted that Hantsport should be afforded its own polling district in the new Regional Municipality. In its view, Hantsport has a distinct community of interest which should be reflected in its unique polling district. THIDA takes this view for either the 9- or 11- district scenario, adding that a separate polling district in a 12- district scenario may be even more appropriate, presumably because, under a 12- district scenario, it would reduce the rather large variance from the average number of electors per district. For example, the variance would be -33.7% for an 11- district council, but it would decrease to -27.7% for a 12- district council.

[93] The Board notes that THIDA's position does not appear to have any broad support from the public. Only five letters of comment filed with the Board addressed this issue. No member of the public registered to speak at the Board's evening session. Mr. Heseltine also confirmed that apart from appearances by a few THIDA members during the public consultation sessions conducted by Stantec, the Hantsport issue was not raised in the public meetings or in survey responses. In the Board's opinion, it is reasonable to assume that if this issue had been a concern for Hantsport residents, they would have responded in greater numbers to convey their comments to the Board.

[94] THIDA has taken a very narrow view of the term “community of interest” as it relates to this application. Mr. Heseltine identified 51 named communities in West Hants. None of these communities will have their own unique voice in the new Regional Municipality governance structure. Most of these 51 communities will be combined with other communities to form polling districts. Even larger communities that are similar in population to Hantsport, like Falmouth and Brooklyn, will not have their unique polling district. In those cases, the communities are combined with others to form new polling districts. In fact, Falmouth will be divided among three districts: Districts #7, #8, and #9.

[95] As noted by the Board in earlier decisions, there may indeed be various different communities of interest that overlap one another in a municipality: see *HRM* Decision, para. 113. The political boundaries of the former town of Hantsport, with its corresponding area rate, are factors to be considered in assessing community of interest. However, other factors are also relevant, such as geography, road networks, fire protection coverage, catchment areas for shopping and business enterprise, as well as for recreational activities, and other factors. All such factors have to be considered in totality when determining what is the appropriate community of interest in a municipality.

[96] Further, the Board considers that council size, itself, may also play an important part in defining the appropriate community of interest, when combined with its direct mathematical relationship to relative parity of voting power. The communities of interest in a municipality may be materially impacted by the total number of polling districts. To illustrate the point, the communities of interest reflected in polling districts will necessarily be different in a 5, 10 or 15- district scenario for council.

[97] Thus, as it relates to Hantsport, the various communities of interest must be assessed in determining polling district boundaries. The number of electors in each polling district, as impacted by council size, will also have an impact on the drawing of district boundaries. In the end, all these factors must be taken into account in determining the appropriate configuration of polling districts. In this context, the Board does not accept THIDA's submission that the former Town boundaries form the only line of delineation for districts in the new Regional Municipality.

[98] The Board accepts the Co-ordinator's submission that the Board should also take into account the broader intent of the *Act*, which is to create a new Regional Municipality. In that context, it is reasonable to conclude that the drawing of polling district boundaries should reflect a council that is structured to take a regional perspective, rather than protecting parochial or territorial constituencies with the former municipality.

[99] Further, the Board observes that assigning a separate polling district which reflects the strict community boundaries of Hantsport would significantly offend the Board's guidelines respecting appropriate variances from the average number of electors per district. This requirement is specifically referenced under s. 368(4) of the *MGA* as relative parity of voting power. As noted earlier in this Decision, the Board has determined that the target variance for relative parity of voting power shall be  $\pm 10\%$  from the average number of electors per polling district.

[100] If the Board were to accept THIDA's submission to create a distinct polling district for Hantsport, the resulting variances for each scenario would significantly exceed the target of  $\pm 10\%$ : i.e., -27.7% for the 12- district scenario; -33.7% for the 11- district scenario; and -45.7% for the 9- district scenario. The Board notes that each of these

three results also exceed the maximum  $\pm 25\%$  which the Board may accept in exceptional circumstances.

[101] In the Board's opinion, granting Hantsport its own polling district would give electors in that polling district too much voting power relative to electors in other districts of the new Regional Municipality. This result would be neither reasonable nor appropriate.

[102] As support for its position, THIDA also referred to the conclusions in the report of the 2019 Nova Scotia Electoral Boundaries Commission, wherein it recommended eight provincial electoral districts which exceeded the  $\pm 25\%$  variance due to exceptional circumstances. One of these recommended districts was Queens, based on its "political boundaries", which THIDA said applied to Hantsport.

[103] While the municipal boundary review conducted by the Board under the *MGA* and the work undertaken by the Nova Scotia Electoral Boundaries Commission both apply very similar principles and guidelines, the Board considers that not all findings made in the provincial context necessarily carry over to the municipal space. The issue of "political boundaries" is one such example. The case of Queens at the provincial level is distinguishable from the situation of Hantsport at the municipal level. The Board considers that THIDA's request to make Hantsport a separate district is not justified on the basis of political boundaries as in the recommendation of the provincial Electoral Boundaries Commission respecting Queens.

[104] The Board is mindful that when the Town of Hantsport was recently dissolved, the Dissolution Order directed that the area comprising the former Town be reflected as a separate polling district on municipal council for the Municipality. As noted



by THIDA, the Board also accounted for Hantsport's distinct community of interest in the subsequent municipal boundary review. The Board stated:

[39] The Dissolution Order increased the council to 10 by adding a representative from the former Town of Hantsport. No evidence was led as to whether this increase was an issue of concern. The Municipality relied upon the Stantec Report to support the Application to have nine councillors. As has been stated the Report was based upon consultations undertaken before the hearing on the town's dissolution was held. No study was performed to determine if the view of the public had changed since July 1, 2015, the date of dissolution.

[40] Because of the lack of further study and/or discussion by the Municipality about the size of council since July 1, 2015, and because of a possible dilution of representation within the former unamalgamated Municipality of the District of West Hants, the Board finds that the council size should be set at 10, with the former town of Hantsport comprising one polling district.

[41] By maintaining the number of councillors at 10 (the number that presently exists after the dissolution of the town), the variance in electors for the former town of Hantsport is -26%. The Board finds, for the purpose of this upcoming municipal election, this to be a reasonable variance when considering all of the above factors and submitted evidence. As has been stated earlier in this Decision, this does not mean that such a large variance would be acceptable in future applications. [Emphasis in original]

*[Municipality of West Hants, 2016 NSUARB 44, paras. 39-41]*

[105] However, it is also clear from the 2016 Decision that the Board did not intend to create a polling district of a permanent nature for the community of Hantsport. The Board noted at the time that the resulting large variance for relative parity of voting power would not be acceptable indefinitely. This was acknowledged by THIDA during the hearing. In the Board's view, the effect of the 2016 Decision was to provide Hantsport with a voice on council during the important initial transitional period following dissolution. Hantsport's unique polling district was an interim measure, the only issue being how long its status would continue.

[106] Mr. Heseltine specifically addressed the Hantsport issue in the Stantec Report:

#### 5.1.3. Hantsport

A few residents from Hantsport have asserted that the former town should continue to be a separate district as approved by the NSUARB in 2016. At our boundaries consultation

meeting in Hantsport, two participants contended that the Board had recognized Hantsport as a "community of interest" and that designation justified the ongoing separation of the former town from adjacent communities such as Mount Denson and Bishopville.

A wide range of arguments counter this position. To begin with, all 51 communities in West Hants as well as the Town of Windsor, can be regarded as communities of interest. Most of them are combined in other districts and some have been split between districts to meet the NSUARB's parity criterion and/or to address other considerations.

With 921 electors, Hantsport on its own falls well short of the average number of electors with either eleven (-33.7%) or nine (-45.7%) districts [sic]. The community is separated from many areas of West Hants by Highway 101; however, at least two of the communities the residents in question are resisting joining (i.e., Bishopville and Hants Border) are only accessible via Hantsport.

In its 2016 decision, the Board was clear that Hantsport should not "always be considered as [a separate community of interest] for future polling district boundary reviews." Our view is that it is time to incorporate Hantsport with adjacent communities in the same manner as other communities in the region. [Emphasis added]

[Stantec Report, Exhibit W-1, Tab C, p. 45]

[107] The Board accepts, and adopts, Mr. Heseltine's reasoning on this issue.

[108] Taking into account all of the above, the Board concludes that the community of Hantsport should not be afforded its own polling district, whether it be in a 9-, 11- or 12- district scenario.

**(iv) Council size**

[109] The Co-ordinator has applied to the Board for approval of 11 polling districts, each electing one councillor. As noted earlier in this Decision, the 11- district scenario was recommended by Stantec after it conducted its consultation.

[110] Mr. Heseltine testified that after excluding a disproportionate number of survey responses from the current District #3, there were generally an equal number of responses favoring a 9- district and 11- district scenario. In the end, he testified that he proceeded in a fashion which he considered to be the most beneficial in the process of establishing a new government for the Regional Municipality, recommending the 11- district scenario. Mr. Heseltine chose this number to provide greater rural representation

on the new council. In his view, this incremental approach would provide greater buy-in from the rural residents of the region, noting that the survey results had shown this constituency was the most sceptical about regional government. In doing so, Mr. Heseltine highlighted the importance of buy-in to the success of new regional government, as outlined in Dr. Baxter's Report.

[111] Dr. Baxter described the need to address "buy-in". He stated that the tendency to prefer pre-amalgamation patterns of representation:

...highlights the importance of securing "buy-in" from constituents and community leaders at the outset of consolidation - and of using buy-in as an additional factor in determining polling districts toward the goal of establishing a strong political foundation for future reforms down the road. Research has found that buy-in may be especially important in circumstances where a regional consolidation is driven wholly or in part by senior government and/or municipal officials. Rosenfeld and Reese (2005) note that lack of local support in some "top-down" amalgamations can lead to a more protracted transition process "because there is no political buy-in on a larger scale." The fact that the consolidation of the Town of Windsor and the Municipality of the District of West Hants is a response by the provincial government to requests from both Councils forms an important part of this context for [Windsor West Hants].

[Baxter Report, Exhibit W-1, Tab A, p. 21]

[112] Ultimately, Mr. Heseltine recommended an 11- district council in the Stantec Report:

While the difference between a council of ten or twelve [including the Mayor] is hardly dramatic, commentary through consultation at meetings and interviews, and well as through two surveys, showed a clear divide between supporters of each scenario. Individuals who favour nine districts were more likely to favour consolidation. They are seeking a more efficient council that will be able to take full advantage of co-ordinated service delivery through the regional municipal structure. Those who would prefer eleven were most concerned with representation of their communities and easing into regional governance.

Opinions concerning boundaries reflected similar priorities. While some supporters of nine districts did not necessarily endorse all boundaries proposed, most were comfortable with major features such as the division of the Town of Windsor among several districts and the combination of urban, suburban, and rural areas in many of the proposed districts. Proponents of eleven districts generally did not like those features of the nine-district approach. Many comments suggested they wanted to minimize change from the current district arrangement in West Hants. Many also commented that the eleven-district scenario "kept communities together."

As we have noted and results of both surveys quantified, preference for a larger or smaller council correlated with geography. Urban residents were the strongest supporters of a

small council followed by suburban residents (including Hantsport). Rural residents favoured a larger council, frequently stating that it would provide better representation for their communities and more manageable areas for their councillors to serve. ... however, we expect that concerns for the ratio of residents to council representatives and for a more gradual transition of governance arrangements will continue to prevail for most who prefer eleven districts.

...

## 5.2. Recommendation

The most important consideration for the many decisions that the Co-ordinating Committee must make as it works toward consolidating of the Town of Windsor and the Municipality of the District of West Hants on April 1, 2020, will be the implications of each choice for the success of the future regional municipality. That choice, in the case of this Governance Review, is between "ambitious change" and "incremental change" as outlined by Dr. Baxter. Ambitious change, we assume, will make the most of the potential of consolidation as quickly as possible after the new municipality is formed. Incremental change, as Dr. Baxter states, will encourage acceptance from those who are less committed to the new structure.

As we are confident that residents who support consolidation will encourage the new municipality to achieve its potential regardless of council size or boundary arrangements, we feel the more important issue for the success of the municipality is to bring those who are doubtful into the fold. In reaching that difficult decision, we noted that the NSUARB has supported larger councils in the initial terms of regional municipalities and some municipalities enlarged as a result of dissolutions. We also noted that in those cases, council numbers have eventually been reduced as the municipalities in question have matured.

...

## Recommendation

Taking into account the foregoing considerations, we recommend the Council of the Regional Municipality of Windsor and West Hants should consist of a Mayor elected at large and eleven Councillors...

[Stantec Report, Exhibit W-1, Tab C, pp. 43-44 and 46-47 ]

[113] The only other option discussed during the hearing was THIDA's submission that the Board should consider a 12- district scenario, which would provide Hantsport with its own polling district that THIDA said would recognize its distinct community of interest. For the reasons set out earlier in this Decision, the Board did not accept THIDA's submission that the council size should be increased to reflect Hantsport's community of interest.

[114] As noted earlier, the Board considers it appropriate to take account of the context in which the present application was made to the Board. This application is the result of the creation of a new Regional Municipality, resulting from the consolidation of the Municipality of West Hants and the Town of Windsor into a new municipal unit under the *Region of Windsor and West Hants Municipality Act*. In the Board's view, appropriate regard should be given to the intent of the statute which is to create a new regional government by combining a former town and municipality. The *Act*, at least impliedly, reflects an intention to create a new municipal government having a regional perspective. The Board notes that the present matter is not the usual municipal boundary review under the *Municipal Government Act*, where there is little change in the number of total polling districts and the discussion often proceeds to a realignment of boundaries rather than a material change in council size.

[115] The Board notes that the current application reduces the number of elected officials in the region from 15 (including Windsor's Mayor) down to 12 (including the Mayor for the new Regional Municipality). Adding another polling district simply to reflect Hantsport's community of interest (without regard to relative parity of voting power and other factors) would not be consistent with the general intent of the new statute creating a Regional Municipality.

[116] The Board finds that with the creation of a new Regional Municipality, representation on the new council should assume a more regional approach reflected in a smaller number of councillors and polling districts.

[117] Taking all the above into account, the Board is satisfied that the Co-ordinator has demonstrated, on the balance of probabilities, that the number of councillors should be set at 11 (excluding the Mayor).

**(v) Polling district boundaries**

[118] At the conclusion of Phase 2 of the consultation process, Mr. Heseltine made various final adjustments to some polling district boundaries, relying on information he received in the public meetings and his interviews with the councillors, individually and as a group. Most of the adjustments addressed points related to communities of interest, while a few incorporated more recognizable boundaries (e.g., such as Highway #101 between District #8 and #9). In a final presentation of his recommendations to the Coordinating Committee and both councils, the various adjustments met with their approval.

[119] The Board also notes that, with one exception, all variances from the average number of electors per district for the proposed polling districts fall within the  $\pm 10\%$  guideline applied by the Board. The variance of -12.5% for the district of Walton-Centre Burlington, was justified by Stantec in its Report.

[120] Earlier in this Decision, the Board concluded that the community of Hantsport did not require its distinct polling district on the new Regional Council, or an adjustment to the boundaries of that polling district. No other concerns were raised with the Board about that district, or any other polling district boundaries.

[121] The Board approves the polling district boundaries with respect to the 11 polling districts, as outlined in the Windsor-West Hants Governance Review Council Size and Polling District Boundaries Report, dated April 10, 2019, prepared by Stantec.

**(vi) Filing of digital maps of polling districts**

[122] The application contains a digital map of the proposed polling district boundaries. In an Undertaking filed after the hearing, the Co-ordinator requested that the polling district descriptions be shown by way of digital maps, rather than written descriptions.

[123] 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, the Board also requires the separate filing of individual digital mapping for each polling district or ward.

[124] The Board approves the filing of the digital polling district maps by the Co-ordinator. The Board directs the filing of 8½ x 11 inch maps for each polling district.

**(vii) 2022 Municipal Boundary Review**

[125] Under s. 369 of the *MGA*, the next regularly scheduled municipal boundary review shall occur in 2022.

[126] In their testimony at the hearing, the CAOs for the current Town and Municipality confirmed they are aware that a municipal boundary review will be required

in 2022, which will provide officials in the new Regional Municipality the opportunity to review the new council size and polling district boundaries.

## VII CONCLUSION

[127] The Board approves the application. The Board sets the number of polling districts at 11, each electing one councillor. The boundaries of the polling districts are established in accordance with the configuration of polling districts outlined in the Stantec Report for the 11- district model.

[128] An Order will issue upon the filing of the individual digital maps for each polling district.

**DATED** at Halifax, Nova Scotia, this 19<sup>th</sup> day of August, 2019.



\_\_\_\_\_  
Roland A. Deveau



\_\_\_\_\_  
Roberta J. Clarke



\_\_\_\_\_  
Stephen T. McGrath