

DECISION

**NSUARB-MB-10-06
2011 NSUARB 196**

NOVA SCOTIA UTILITY AND REVIEW BOARD

**IN THE MATTER OF THE HALIFAX REGIONAL MUNICIPALITY CHARTER
AND THE MUNICIPAL GOVERNMENT ACT**

- and -

**IN THE MATTER OF AN APPLICATION by HALIFAX REGIONAL MUNICIPALITY to
determine the boundaries of the polling districts**

BEFORE:

Peter W. Gurnham, Q.C., Chair
Roland A. Deveau, Q.C., Acting Vice-Chair
Murray E. Doehler, CA, P.Eng., Member

COUNSEL:

HALIFAX REGIONAL MUNICIPALITY
Mary Ellen Donovan, Q.C.

INTERVENORS:

COLE HARBOUR – ONE DISTRICT COMMITTEE
Barry Alexander
John Harlow

HALIFAX REGIONAL SCHOOL BOARD
John C. MacPherson, Q.C.

BOARD COUNSEL:

Richard J. Melanson, LL.B.

HEARING DATE:

November 7 and 9, 2011

FILED UNDERTAKINGS:

November 14, 2011

DECISION DATE:

December 20, 2011

DECISION:

**The Board sets the polling district boundaries for the
new 16 polling districts.**

TABLE OF CONTENTS

I	INTRODUCTION.....	3
II	PROPOSED POLLING DISTRICTS	4
III	EVIDENCE PRESENTED BY HRM	9
IV	EVIDENCE OF THE COLE HARBOUR - ONE DISTRICT COMMITTEE	13
V	SUBMISSION OF THE HALIFAX REGIONAL SCHOOL BOARD	17
VI	ANALYSIS AND FINDINGS	18
	a) Cole Harbour/Cherry Brook/Lake Loon.....	22
	b) Main Street Dartmouth.....	25
	c) Portland Estates/Shearwater/Eastern Passage	27
	d) Dartmouth Centre	29
	e) Downtown Halifax	31
	f) Sackville and area	33
	g) Otter Lake and Birch Cove Lakes watersheds.....	38
	h) Kearney Lake and Wedgewood Park	41
	i) Prospect Road / Western Wilderness Common.....	42
	j) Waverley/Fall River and Eastern Shore.....	42
VII	CONCLUSION	46

I INTRODUCTION

[1] Halifax Regional Municipality ("HRM" or the "Municipality") applied to the Nova Scotia Utility and Review Board (the "Board") on December 30, 2010 under the *Municipal Government Act*, S.N.S. 1998, c. 18 (the "Act") to confirm the present number of councillors and polling districts at 23 and, further, to alter the boundaries of the polling districts. The Act applies by virtue of the *Halifax Regional Municipality Charter*, S.N.S. 2008, c. 39.

[2] There are two components in all polling district boundary applications: first, setting the number of councillors, followed by determining the boundaries of the polling districts themselves. The Board granted the request of HRM's counsel that the hearing be conducted in two phases, i.e., that the Board first hear evidence on determining the number of councillors and make a decision on that issue prior to hearing evidence on the proposed polling district boundaries.

[3] The Board held hearings on June 20 - 22, 2011. The Board issued its Decision on the number of polling districts on July 27th: 2011 NSUARB 119. The Board's Decision reduced the number of polling districts and councillors to 16 and remitted the matter back to HRM to prepare polling district boundaries to be reviewed by the Board.

[4] In an application dated October 25, 2011, HRM filed its evidence on the proposed boundaries for the 16 polling districts.

[5] A Notice of Hearing was published in the **Chronicle Herald** on October 22, 2011. The Notice of Hearing allowed for the filing of letters of comment by the public and requests to speak at the evening session.

[6] The Board granted requests for formal standing to the Halifax Regional School Board ("HRSB") and to the Cole Harbour - One District Committee ("CH Committee").

[7] The hearing was conducted at the Board's offices in Halifax, Nova Scotia on November 7 and 9, 2011. HRM was represented by Mary Ellen Donovan, Q.C. Four citizens appeared on behalf of the CH Committee. While the Halifax Regional School Board was represented by John C. MacPherson, Q.C., it did not appear at the hearing. It did, however, file a written submission. An evening session was also held on November 7th.

[8] The Board also received 61 letters of comment and 24 persons/groups spoke at the evening session.

II PROPOSED POLLING DISTRICTS

[9] The following Table (i.e., Scenario 1 - Revised) shows the voter statistics which will result from HRM's proposed polling district boundaries. The voter statistics are from a database developed by HRM which accounts for the number of dwelling units, voter projections and projected development growth.

[Remainder of page left blank intentionally]

Scenario 1 - Revised 16 Polling Districts					
Polling District	Name	Electors	Variation from Avg. Number of Electors		Land Area (km ²)
			#	%	
A/1	Eastern Shore	16,870	(3,606)	(17.6%)	3,903
B/2	Fall River	20,852	376	1.8%	424
C/3	Cole Harbour	19,219	(1,257)	(6.1%)	201
D/4	Colby Village	18,564	(1,912)	(9.3%)	53
E/5	Dartmouth East	19,676	(800)	(3.9%)	16
F/6	Dartmouth Centre	18,450	(2,026)	(9.9%)	11
G/7	Dartmouth North	21,522	1,046	5.1%	58
H/8	Peninsula South	21,127	651	3.2%	8
I/9	Peninsula North	22,064	1,588	7.8%	7
J/10	Fairview	22,266	1,790	8.7%	8
K/11	Peninsula West	22,392	1,916	9.4%	12
L/12	Clayton Park West	21,928	1,452	7.1%	84
M/13	Spryfield	20,116	(360)	(1.8%)	354
N/14	South Shore	19,833	(643)	(3.1%)	685
O/15	Sackville	23,021	2,545	12.4%	27
P/16	Bedford	19,715	(761)	(3.7%)	50
TOTAL		327,615			

Total number of electors: 327,615
Number of councillors: 16
Average number of electors per councillor 20,476

[10] The descriptions of the 16 proposed polling districts are as follows:

Polling District Descriptions - Recommended Scenario 1 (as revised)

District A/1 - Eastern Shore/Musquodoboit Valley (3903 sq. km)

The district encompasses the largely rural/coastal areas of HRM along the Eastern Shore and the Musquodoboit Valley.

Commencing at the communities of Porter's Lake and the Chezzetcook's the district continues along Highway 7 to the furthest eastern most communities of HRM and, taking in all communities on the connecting provincial highways (374,224, 357) through to the Musquodoboit Valley. The district then extends through the Musquodoboit Valley following the boundaries of HRM including the communities of Carroll's Corner, Dutch Settlement, Lantz and Elmsdale (HRM portions), returning to Porters Lake following the community boundaries of Devon and Meaghers Grant.

District B/2 - Fall River/Waverley/Beaver Bank/Sackville (424 sq. km)

Starting at the North West reaches of HRM and including the communities of Goff's, Enfield and the Airport, the district extends along highway 102 including the communities of Fletcher's Lake, Oakfield, Wellington, Fall River, Lakeview and Windsor Junction. The district also incorporates the community of Waverley along Highway 118. Moving westerly from Windsor Junction the district includes the communities of Lakeview, Beaver Bank, Middle Sackville (the portion north of Margeson Dr.) and Upper Sackville.

District C/3 - Cole Harbour/Westphal/Lawrencetown/Prestons (201 sq. km)

The district includes the north eastern portion of Cole Harbour along with the communities of Westphal, Lake Loon and Cherry Brook along with East and North Preston and surrounding areas through to Mineville and the coastal communities from Lawrencetown through to Lake Echo.

Commencing where Main Street intersects the Forest Hills Parkway this district includes the communities of Lake Loon, Cherry Brook, Westphal and the north eastern portion of Cole Harbour. Moving easterly along the Lawrencetown Rd the district includes the communities of Lawrencetown, East Lawrencetown, Three Fathom Harbour, Seaforth, Grand Desert and West Porters Lake. Moving easterly along Highway 7 the district includes Mineville, Lake Echo, East Preston and North Preston.

District D/4 -Colby Village/Cow Bay/Eastern Passage (53 sq. km)

The district includes the neighbourhood of Colby Village as well as Cow Bay, Eastern Passage and Shearwater.

Commencing at Caldwell Road and Cole Harbour Road the district includes the Colby Village portion of Cole Harbour and extends along Bissett Rd to the community of Cow Bay. Following Cow Bay Road and the coast line the district through Eastern Passage and continues along the 322 Highway into Shearwater terminating at the community boundary. The boundary follows the Shearwater community boundary north easterly to reconnect at Caldwell Road.

District E/5 - Dartmouth East (16 sq. km)

The district commences at the southerly boundary of Dartmouth where Pleasant St and Main Rd intersect. The boundary continues along Pleasant St to Highway 111 encompassing the neighbourhood of South Woodside. From there the boundary follows Highway 111 to Main St. moving easterly along the center of Main St to the Forest Hills Parkway. The boundary then turns southerly to generally follow the community boundaries of Westphal/Dartmouth & Cole Harbour to run between Kirkland and Glenalva Crts to Circassion Dr and along Circassion Dr to the Forest Hills Pky. and along the parkway to Cole Harbour Road and continuing westerly to Caldwell Rd including Wexford Rd, the western portion of Delta Dr., Cherrywood Dr and all associated Streets.

The district includes the neighbourhoods of South Woodside, Russell Lake, Portland Estates and Portland Hills and Woodlawn.

District F/6- Dartmouth Centre (11 sq. km)

The district includes most of old Dartmouth within the circumferential highway.

Starting at Highway 111 the boundary continues northerly until the intersection with Woodland Ave. The boundary then extends down the center of Woodland Ave to the intersection with Victoria Rd. and continues southerly onto Boland Rd to Jamieson St and south westerly to the Harbour.

District G/7 - Dartmouth North/the Lakes (58 sq. km)

The district includes Dartmouth North, Burnside, Dartmouth Crossing and Dartmouth the Lakes.

The district commences at the intersection of Highway 111 and Main St (the shared boundary with District E/5) and continues east to Forest Hills Ext, north to the community boundary with Montague Gold Mines and into Waverley just south of the Silversides neighbourhood. The boundary then heads west to Windmill Rd at the community boundary between Dartmouth and Bedford and then southerly to the boundary with District F/6 at Jamieson St.

District H/8 - Peninsula South (8 sq. km)

The district takes in the southern portion of the peninsula of Halifax. The district includes Spring Garden Rd and the majority of the historic downtown of Halifax along Barrington St to the Harbour. This district also includes Point Pleasant Park and Sable Island.

The boundary commences at the North West Arm and commencing at the bottom of Jubilee Rd. follows Jubilee Rd to Oxford St and extends north along Oxford St to Quinpool Rd. then extends along the centre line of Quinpool Rd. to Cogswell St. The boundary then moves along Cogswell St at the commons to North Park St. to North Park St and northward to Cornwallis St and down Cornwallis St to the harbour.

District I/9- Peninsula North (7 sq. km)

The district takes in the dockyards, container port and the Gottingen St & Agricola St Business Areas as well as the Hydrostone neighbourhood. The district follows the shared boundary with District H/8 and takes in the northern portion of the peninsula of Halifax. At the corner of Oxford St and Quinpool Rd. the boundary moves northward along Oxford to Bayers Rd and westward to Joseph Howe Dr. The boundary then moves northward along Connaught Avenue to the Bedford Highway and follows the harbour at the Bedford Basin to the lower end of Cornwallis St. The boundary then turns up Cornwallis St. following the boundary between District H/8 Peninsula South to North Park St, along the commons at Cogswell St. to Quinpool Rd to return to the corner of Oxford St. and Quinpool Rd.

District J/10 - Fairview/Clayton Park (8 sq. km)

The district takes in the neighbourhood of Fairview, Rockingham and the majority of Clayton Park below Dunbrack Street including Mount St. Vincent University. This district extends from the boundary with District 1/9 at Joseph Howe Drive along the Bedford Highway to Princes Walk.

The boundary, just north of Princes Walk, crosses to the Bedford/Halifax community boundary on Kearney Lake Road and extends back along Kearney Lake Road to Dunbrack Street and along Dunbrack Street to Lacewood drive. The district includes the streets of Clayton Park West above Dunbrack Street (Chadwick, Chelsea, and Harrington Streets) and extends past the western portion of Washmill Lake Drive to Highway 102 and proceeds down Highway 102 back to Joseph Howe Drive.

District K/11 - Peninsula West/Armdale (12 sq. km)

This district takes in a portion of the western peninsula of Halifax and extends from the roundabout to include the community of Armdale and associated neighbourhoods, along with residences on and adjacent to the Herring Cove Rd as far as the Williams Lake Rd and along the Purcell's Cove Rd just past Hall's Rd.

The boundary extends from Oxford St on Halifax Peninsula up Bayers Rd to Connaught Ave and along Joseph Howe Dr. to Highway 102. The boundary then extends along Highway 102 and back to the North West Arm Dr. to Cherry Lane. The boundary then follows Penney, Hillary and Mont Streets to the Herring Cove Rd and along the Herring Cove Rd to extend behind the streets off of the Williams Lake Rd to the Purcell's Cove Rd to just past Halls Rd. The boundary then returns along the North West Arm towards the roundabout as far as the bottom of Jubilee Road where it turns up Jubilee Rd to join at the corner of Oxford St and Jubilee Rd.

District L/12 - Clayton Park West/Beechville/Timberlea (84 sq. km)

This district takes in the western portion Clayton Park above Dunbrack Street to Park Land Drive (including the Canada Games Centre) along with the Bayer's Lake retail centre and extends along the St Margarets Bay Road as far as Exit 4 of Highway 103 to include the communities of Beechville, Lakeside and Timberlea.

The boundary commences at the Bayer's Lake interchange of Highway 102 and extends northwest along Highway 102 to the intersection with North West Arm Dr. It then traverses behind Birchdale Crescent and Westridge Drive to connect with Lacewood Drive. The boundary then moves easterly along Lacewood Drive to Dunbrack Street on onward to the Kearney Lake Road interchange. The boundary continues along Highway 102 to Larry Uteck Blvd and across to the Kearney Lake Road and then onto the Bedford/Halifax community boundary. The boundary continues westerly across country to Exit 4 on Highway 102. The boundary then extends westerly to Nine Mile River encompassing the community of Otter Lake and returns to the interchange at Highway 102 and Highway 103 where it commenced.

District M/13- Spryfield/Sambro/Prospect Rd (354 sq. km)

The district includes Spryfield and Leiblin Park and the communities along Highway 349 and 306 known as the Sambro Loop. The district also includes the coastal portion of the Purcell's Cove Rd/Highway 253 as well as the communities known as the "Prospect Communities" extending from Goodwood along Prospect Rd as far as the Peggy's Cove preservation area.

District N/14 -South Shore/Hammonds Plains (685 sq. km)

The district stretches from Hubbards to Upper Tantallon along the St Margarets Bay Rd, and then from Tantallon to the Peggy's Cove preservation area (including Peggy's Cove) along the Peggy's Cove Rd. Inland the communities of Hubley, Lewis Lake, Stillwater Lake, Upper Hammonds Plains, Lucasville are included as well as the neighbourhoods of Kingswoods North and South.

The boundary extends from the Peggy's Cove preservation area (including Peggy's Cove) across St. Margaret's Bay to the furthest west boundary of HRM at Hubbards, including in the district the communities along Peggy's Cove Rd to Tantallon and along St Margarets Bay Rd to Hubbards. The boundary then follows the line between HRM and Lunenburg and Hants Counties to Highway 101 at Upper Sackville. The boundary then follows the Sackville River to Westpoint Drive in the community of Lucasville and follows the community boundary line of Lucasville to include Lucasville and Kingswood North and South within the district. The boundary then turns west again to follow the community boundary lines between Hammonds Plains and Timberlea to connect with Highway 103 at Exit 4. The boundary follows the 103 south to the community boundary of Otter Lake and extends west across country following community boundary lines to reconnect to Peggy's Cove Rd at Peggy's Cove.

District O/15 -Sackville (27 sq. km)

The district follows the community boundary of Lower Sackville with the exception of the eastern most boundaries along Cobequid Rd, which excludes the subdivision of Stone Mount. The district also includes the portion of the community of Middle Sackville south of Margeson Dr.

District P/16 - Bedford/Bedford South & West (50 sq. km)

The district includes the accepted community boundary of Bedford as well as the new and growing Bedford West and South neighbourhoods and a portion of the old City of Halifax adjacent to Shaunslieve Dr.

The boundary commences at the boundary with Districts O/15 and N/14 at the Sackville River and follows the Sackville River to Highway 102 and the Bedford By-pass. The boundary then follows the Bedford Community boundary to Windmill Road above the Burnside Industrial Park and out into the Bedford Basin. The boundary then extends across the Basin to Shaunslieve Dr where it continues westerly across country to Highway 102. The boundary follows Highway 102 to Exit 2B and continues westerly to

the Kearney Lake Road running along the centre of Kearney Lake in conjunction with the boundary of District L/12. The boundary then extends up the Kearney Lake Road (incorporating both sides) to the intersection with the Hammonds Plains Road and continues across country to reconnect at the Sackville River.

[HRM Application, Exhibit H-28, pp. 5-8]

III EVIDENCE PRESENTED BY HRM

[11] Counsel for HRM called five witnesses in support of its application: Cathy Mellett, Municipal Clerk; Ken Lenihan, GIS Technician; Maurice Lloyd, Chair of a volunteer review committee appointed by HRM; Councillor Reg Rankin; and John Heseltine of Stantec Consulting.

[12] Ms. Mellett stated HRM staff undertook various steps to address the boundaries issue. First, it adopted the principles to be used in the process of determining the polling district boundaries. Then, staff prepared options and alternative approaches, and reviewed these options internally with various departments in HRM. HRM also engaged Stantec Consulting to conduct an independent third party review of the options. HRM staff also consulted staff at the HRSB regarding a possible joint application to the Board, and, at a minimum, to seek the HRSB's comments about the boundaries.

[13] After these preliminary steps, HRM staff selected two alternative polling district configurations or "scenarios" to present to the public for consultation (i.e., Scenario 1 and Scenario 2).

[14] The first step in the public consultation process was to conduct an on-line survey, as explained by HRM in its application:

Staff, in discussion with Stantec, commenced the public engagement process through the use of an on-line survey. Two (2) boundary scenarios were posted on-line along with detailed district maps. The public was asked to comment on which scenario they preferred, along with any additional comments or suggestions they wished to put forward.

To establish a "control" group, HRM engaged The Marketing Group (a local marketing company) to invite residents selected representatively from throughout HRM to fill out the survey to achieve approximately 1,000 responses in the control survey. The control responses were kept in a separate data base from the broader public survey. This approach allowed staff to evaluate preferences and responses in a controlled manner in addition to responses self-selected through resident participation. In total, between the control survey and the open survey almost 3,000 residents responded to the survey.

...

In the open public survey overall preference was quite divided with a slight preference towards Scenario 2. However, preference changed significantly depending on which current polling district the respondents lived in. Residents in six (6) current polling districts preferred Scenario 1 (Districts 2, 3, 8, 11, 17, and 19). Residents in nine (9) current polling districts preferred Scenario 2 (Districts 4,5,12,13,14,16,18,22, and 23). Residents in eight (8) current polling districts had a relatively equal preference between the two scenarios (Districts 1,6, 7, 9, 10, 15, 20, and 21).

In the "control" by invitation survey preference was relatively evenly split with 47% of those stating a preference for Scenario 1, 45% stating a preference for Scenario 2 and 9% preferring neither. Difference by district was not as pronounced in the control survey results.

...

The results of the survey responses (by invitation and public) did not provide strong guidance, based on a regional perspective, as to which of the two scenarios staff should recommend.

[HRM Boundary Application, Exhibit H-28, Tab 4]

[15] HRM conducted eight evening public information meetings to review the proposed polling district boundaries and to seek comments from the public. Approximately 160 people attended the eight meetings. The meetings were scheduled as follows:

Monday, September 19 th	Halifax Hall, Halifax
Wednesday, September 21 st	Sackville High School, Cafeteria, Lower Sackville
Wednesday, September 28 th	Lakeside Fire Hall, Timberlea
Wednesday, September 28 th	Sheet Harbour Lions Centre, Sheet Harbour
Thursday, September 29 th	Dartmouth Sportsplex, Nantucket Room, Dartmouth
Wednesday, October 5 th	Eastern Shore Recreation Centre (Arena), Bingo Hall, Musquodoboit Harbour
Wednesday, October 5 th	Canada Games Centre Community Board Room, Halifax
Thursday, October 6 th	Basinview Drive Community School, Cafeteria, Bedford

[HRM Application, Exhibit H-28, Attachment 4, p. 88]

[16] HRM also received 34 written submissions addressing various boundaries issues.

[17] Further, a review was undertaken by a Volunteer Citizen Review Panel:

The Volunteer Citizen Review Panel was invited by the CAO to undertake a review of staff's analysis and recommendations. The Panel was comprised of Mr. Maurice Lloyd, Ms. Valerie Spencer, Mr. Paul Hyland and Mr. Bernie White. The panel's experience, knowledge and insights made a significant contribution to the independence of the review process.

...

The panel reviewed the options and staff analysis and advised that Scenario 1 (as revised) best met the communities of interest on a regional basis - including strong rural representation and addressing the specific concerns put forward by communities of interest within the constraints as provided for under the polling district review process. The Panel also noted that decisions taken regarding forming the districts into Community Councils and ongoing discussions on governance would be important as HRM moves forward with the revised polling district boundaries.

[HRM Boundary Application, Exhibit H-28, Tab 4]

[18] Mr. Lloyd also testified on behalf of HRM at the Board's hearing. He stated that the Panel thought HRM staff had performed an appropriate consultation and had developed reasonable boundaries. He indicated that he believed Scenario 1 was the best alternative. He also stated that rural areas on the Eastern Shore should be provided with fair representation on Regional Council. On questioning from the Board, Mr. Lloyd acknowledged that the Panel did not extensively canvass the Cole Harbour concerns.

[19] On the basis of the public consultation and the external reviews by Stantec and the Volunteer Citizen Review Panel, HRM staff concluded that Scenario 1 - Revised represented the best solution, taking into account the various principles it had considered for the preparation of polling district boundaries:

In light of the feedback and reviews undertaken during the consultation, including that of the public, HRSB, the Volunteer Review Panel and Consultant staff determined that Scenario 1 (as revised) ...best serves the principles adopted for the setting of the 16 new Polling Districts in HRM.

- Take growth into account
- Ensure parity between districts
- Meet the NSUARB requirement of voter equity (+/- 10% of average) or strongly defend otherwise
- Use identifiable boundaries where possible
- Consider communities of interest as much as possible given the significance of the change required in polling district boundaries
- Meets the NSUARB requirement to ensure that Lake Loon, Cherry Brook and Cole Harbour are retained within one (1) polling district while also addressing the expressed aspirations of surrounding communities
- Takes a regional approach - strives for the best good for the most

Staff recommend Scenario 1 (as revised) on the basis that:

- It respects identifiable communities of interest across all of HRM.
- It retains a primarily rural district in eastern HRM and would provide voters in that area the opportunity to elect a member of Council to represent their interests and concerns.
- It retains communities of interest in the south western coastal areas of HRM.
- It provides the opportunity to have representation in the urban centres of both Dartmouth and Halifax - which is a focus of the Regional Plan.
- It addresses growth in the fastest growing areas of HRM by establishing districts that include the major growth areas in HRM.
- It provides for districts that have industrial/commercial centres such as Bayer's Lake/ Burnside/Dartmouth Crossing and adjacent residential communities that surround those commercial growth centers within polling districts.
- It substantially follows community boundaries and where required uses other identifiable boundaries to shape the polling districts.
- It is strongly supported by the Halifax Regional School Board as the best option representing their families of school and communities of interest.
- It was supported as the "preferred option given the constraints of setting polling district boundaries" by the Independent Review Panel.

[HRM Boundary Application, Exhibit H-28, Tab 4]

[20] The Stantec Report concluded that HRM's public consultation process was "thorough and technically sound" and that the proposed boundaries provide fair and appropriate polling districts:

In the opinion of the consultant, the recommended boundaries will provide appropriate and fair districts from which to elect HRM's next Regional Council. The voter populations of the 16 proposed districts are in reasonable balance. The two districts that have populations outside the range recommended by the NSUARB are readily explained. The districts also reasonably encompass communities of interest within boundaries that should, for the most part, be readily comprehended by voters. The boundaries also meet the requirements for contiguity and reasonably distribute the physical area of the municipality recognizing the challenge of developing districts with balanced populations in

a very large municipality in which there are large variations in population between urban, suburban, and rural areas.

[Stantec Report, Exhibit H-28, Attachment 3, pp. 71-72]

[21] After HRM and the CH Committee presented its evidence, and after the Board held its evening session, the Board requested HRM witnesses to return on November 9th to answer questions by the Board regarding specific boundary issues raised during the hearing and in the public's letters of comment and presentations. In the November 9th session, Ms. Mellett provided responses to the Board's inquiries and Mr. Lenihan provided data in response to possible boundary amendments explored by the Board. The participation of Ms. Mellett and Mr. Lenihan in this hearing, as well as other HRM staff involved in the application, was very helpful to the Board.

IV EVIDENCE OF THE COLE HARBOUR - ONE DISTRICT COMMITTEE

[22] The CH Committee was represented at the hearing by four residents, namely, Barry Alexander, Gerri Irwin, John Harlow and Ron Cooper. They asserted that Scenario 1 – Revised does not reflect the strong community of interest in the Cole Harbour area. They also suggested the consultation process was flawed.

[23] These four residents outlined the significant engagement by Cole Harbour residents in the development of their community. They also raised many of the same concerns identified by other residents outlined below in this Decision.

[24] The Board also received many letters of comment and presentations at the evening session about HRM's proposed Scenario 1 – Revised, which would effectively divide Cole Harbour by allocating it into three different polling districts. The comments unanimously suggested this would defeat the area's community of interest.

[25] HRM's proposal would split Cole Harbour into three parts at the intersection of Cole Harbour Road and Forest Hills Parkway, as described by Deborah Moulton:

... To put this into further perspective: in Scenario 1, if you stood at the Cole Harbour "town centre" at the intersection of Forest Hills Parkway and Cole Harbour Road, the part by Sobey's would be in District E, the part across from Sobey's (the Toad Computers side) on Forest Hills Parkway (including Cole Harbour Place and Auburn Drive High School) would be in District C, and the area south of Cole Harbour Road (Colby Village) would be in District D.

...

Breaking up the Community of Cole Harbour into three (3) different districts subverts the cohesiveness of the community...

[Deborah Moulton, Association for Business in Cole Harbour]

[26] Examples of the public's comments describing the community of interest in Cole Harbour [Letters of comment, Exhibit H-34] are as follows:

My concern is for the area I reside in which is Cole Harbour. The proposed new boundaries have my community of Cole Harbour divided into three different areas. Colby Village with the Eastern Passage, Forrest Hills divided in two in separate districts.

It appears that my community of Cole Harbour is being overlooked as being a community. ...

... I am discouraged when I see no other community divided, BUT Cole Harbour is divided into three areas. Is this fair for my community and our residents, NO. We got it particularly right last time when boundaries changed. We had half of Forest Hills with Colby, now lets get it right this time and but the rest of Forest Hills with Cole Harbour so our community can stay together.

[Joe Taplin]

... Scenario 1 makes no sense to me at all. There will be a pie split into 3 districts in the middle of Cole Harbour. ...

... sustaining large community with shopping plazas, Canadian Tire, grocery stores, service stations, restaurants, community centers, doctor and dentist offices, Zellers (soon to be Wal-Mart), etc, etc. We even have a large community Fair at Cole Harbour Place every year for everyone to enjoy. ...

... does HRM council think "We" as a community which includes Westphal, Cherry Brook and Parts of Preston Area, Humber Park, Forest Hills, Colby Village, Colby South, Bissett Lake Area and Caldwell Rd. areas are too big? It does make one wonder why. Why split a community right down the line in 3 parts. Make no sense.

[Daryl & Tammy Ripley]

The reason for my request is the approach in the first scenario to "cut up" Cole Harbour Area into 3 different sections leaving the community with 3 different counsellors, thus making the region much harder to be well represented and to ambiguous to the local community.

...

Cole Harbour Area has grown into it own community and after too many battles to create and support it as one region, it would be foolish to split it up. In the current proposal they would actually have Cole Harbour Place (great community involvement location) not be represented by the same person as Cole Harbour Road and even then Cole Harbour Road itself would be split into two separate counsellors. ...

[Fernando Lucas, Palladium Family Restaurant]

The interests of the community are to be split among three different councillors. We are concerned this will weaken the collective voice of our residents to the point where we will become ineffective at pursuing worthwhile projects and initiatives.

A sense of community is an important base on which to build the consensus necessary for residents to work together to support local businesses and institutions...

[Bill Lamont]

... The sense of community and the involvement of the community in developing community events, reminds me of growing up in the country. It is like a community within the city, a place where we want our children to grow up and learn about the sense of community and become involved. Why would you even consider breaking the Cole Harbour Area into 3 parts. ...

[Cathy Burgess]

... Cole Harbour is a large, vibrant, active, proud, and close knit community that will require a unified voice in Council in the future for growth and development. The current proposal takes this town and divides it into 3 separate districts, each part of a larger community or old city area. I fear the larger older sections of each district will take precedent over each smaller part of the Cole Harbour community. ...

[Jim Benoit]

We were greatly disturbed to read that the proposed district boundary changes selected will be destroying the integrity of our community, Cole Harbour. The proposed boundaries effectively divide this small but important section of HRM into 3 corners of 3 different districts (C,D and E). We are a strong community with a long heritage in this area and we are well connected by our schools, Cole Harbour Place, our outdoor recreation areas and our business association. ...

What these proposed boundaries will do is silence the voices of Cole Harbour residents by drowning our needs to the larger voices of the groups each section of Cole Harbour has been lumped with, in our case Eastern Passage. ...

[Gloria Pohajdak]

Please don't divide our community any further - let us remain as Cole Harbour so that we can continue to teach our children and grandchildren the story of this community and its history. ...

Leave well enough alone - leave our community of Cole Harbour as one community with its Parks we so love and care for and use regularly. ...

[Vicki Henrikson, October 31, 2011]

I am appalled at the prospect of the Cole Harbour boundary being split into three districts. In my mind, this makes no sense. ...

As a frequent user of the Cole Harbour Heritage Park and related walking trails, I question the ability of three councillors vs one to respond in a timely/cohesive manner to the needs of the Cole Harbour Parks and Trails Association. How will a working relationship be developed with three Councillors who have different view points and responsibilities within their district when all three share portions of the Cole Harbour trails system? ...

[Vicki Henrikson, October 28, 2011]

Cole Harbour is a vital and vibrant community, full of cohesive spirit. Now it will be dismantled and pulled apart as adjuncts to other communities with no one voice of representation in the halls of HRM Council. Cole Harbour needs one voice for one solid community, not an addendum or an appendix to other communities' concerns. We citizens of Cole Harbour have our own concerns, unique to us, which should be considered as a solid unit.

[Marilyn Carter]

... Scenario one divides Cole Harbour into three different municipal ridings. It is difficult to fathom how our community will fare with such disjointed representation within our Municipal Government. I can easily picture scenarios where Cole Harbour residents are confused about how to advance municipal matters because of the proposed boundaries which essentially split us at the very heart of our community. It is very sad to think that just as the community has strengthened its ties, we will be divided. I believe that keeping Cole Harbour together and creating a larger riding in HRM that represents our community in a unified manner will facilitate the growing sense of pride that we have been experiencing. ...

[Karen Gibson]

We have lived in Cole Harbour for nearly 40 years and have watched the community grow, expand, come alive, and prosper with shopping areas recreational spaces, churches, schools, a police station, fire stations, etc, Cole Harbour is a great place to live and is well known clear across Canada because of Sydney Crosby.

What has impressed us most is the spirit of the residents. We no longer identify ourselves as being from Colby Village or Forest Hills subdivisions etc - we are from Cole Harbour.

...

[Gary and Carol Gibson]

... We feel that the HRM Council decision to accept Option 1 flies in the face of their own desired outcomes. Their choice is shortsighted, anti-community and an assault on core community values. With this option Cole Harbour appears to be the ONLY community within the HRM that is being carved up, whereas Option 2 physically unites the community and in the long run will create a culturally stronger, more harmonious and safer Cole Harbour.

[Janice Kirkbright, Executive Director & Terry Eyland, Curator,
Cole Harbour Rural Heritage Society & Heritage Farm Museum]

V SUBMISSION OF THE HALIFAX REGIONAL SCHOOL BOARD

[27] Representatives of the HRSB did not attend the hearing. However, it filed a written submission.

[28] Its legal counsel submitted:

Section 44(4) of the Education Act provides that the Board must have regard to existing polling districts and wards when determining school board electoral boundaries. This provision is important due to the practical constraint that HRSB's boundaries should align with HRM's municipal polling district boundaries in order to facilitate school board elections. The Board has recognized this constraint in the past when determining HRSB's boundaries and has noted that inconsistency in boundaries can cause voter confusion and would increase the cost of the school board elections to HRSB.

As a result of the importance in maintaining congruity between HRM and HRSB boundaries where possible, and in advance of an application to the Board by HRSB to determine its boundaries, HRSB participated in HRM's boundary application as a formal intervenor and would like to provide the Board with the following comments in respect of HRM's application.

HRSB supports the municipal district boundaries proposed in HRM's Scenario 1B, as illustrated in Exhibit H-33. This scenario would see HRSB's proposed boundaries to align with HRM's boundaries, and would allow for the efficiencies described above. Even if small adjustments were made by the Board to the boundaries proposed in Scenario 1B, HRSB believes that its proposed boundaries could be adjusted to align with those of HRM while meeting the requirement to have no more than a ten percent variance in the number of electors between districts ("the 10% requirement").

HRSB is not in favour of the boundaries proposed in HRM's revised Scenario 2, as illustrated in Exhibit H-32. This scenario would split the rural area of the Eastern Shore district in to a north and south district. To accommodate the 10% requirement, District A/1 would include a portion of the suburban Cole Harbour area and District B/2 would include a portion of the suburban Fall River. From HRSB's perspective, this scenario raises two concerns.

First, HRSB is concerned that this scenario would take away from the rural representation in these areas. As education in the rural area has and continues to be an issue for HRSB, HRSB feels strongly that the rural voice in these areas should not be overwhelmed by the larger suburban vote that would be created by the boundaries proposed in Scenario 2. As a result, HRSB is not in favour of splitting the rural area of the Eastern Shore district.

HRSB's second concern is that this scenario would require HRSB to change its proposed boundary in these areas. The precise impacts that this would have on adjacent boundaries to ensure the 10% requirement was adhered to as closely as possible are not fully known. However, HRSB's boundaries may need to change in Fall River, Sackville, Cole Harbour, Dartmouth, and the Eastern Passage areas. This could limit the ability of HRSB to utilize sets of two HRM districts to create its districts, which HRSB submits would have cost impacts and could result in voter confusion during elections.

[HRSB Closing Submission, November 14, 2011, pp. 1-2]

VI ANALYSIS AND FINDINGS

[29] 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.

[30] In its first Decision in this matter, which reduced the number of polling districts and councillors to 16, the Board also provided guidance to HRM in addressing the drawing of polling district boundaries:

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

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

[177] The Board is mindful that HRM Council, staff, or consultants will now face the challenge of drawing polling district boundaries that meet the standards outlined by the Board. As noted in the hearing, HRM has a large geographic size containing urban, suburban and rural components. In conducting this exercise, HRM should note that, in exceptional cases, the Board has allowed variances up to and over $\pm 25\%$, where large geographic areas and communities of interest justify the departure from the standard which normally applies. The Board considers that such higher variances may apply in a few of the polling districts to be drawn in this proceeding, such as large sparsely populated rural areas. It should be noted that the more the variance exceeds 10% the greater and more detailed the justification the Board will expect.

[Board Decision, 2011 NSUARB 119]

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

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

- history
- recreational issues
- tax rates, ie. area rates
- services (water and sewer)
- fire protection service areas
- traffic infrastructure and patterns

- planning boundaries
- language
- ethnic origin
- school districts
- shopping patterns and business centres

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

[Board Decision, 2004 NSUARB 11]

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

[33] The Board has also indicated that public consultation is important in determining both the appropriate number of councillors, as well as the polling district boundaries. Further, the Board has stated that it considers its own process as an additional means for residents to provide their comments on proposed boundaries. In the Board's 2004 Decision, it stated:

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. In the present case, because of the very limited time available (the polling district boundaries must be determined no later than March 15, 2004), there has been a less than ideal level of public consultation on the issue of the tentative boundaries. Nevertheless, the Board has endeavoured to ensure there was as much public consultation as time permitted and has taken that public input into account before issuing its Order.

[Board Decision, 2004 NSUARB 11]

[34] The Board is mindful that the drawing of boundaries by HRM for the new 16 polling districts in this proceeding was a challenging endeavour. This difficult task

was made even harder by the numerous communities of interest scattered across a large geographic area, characterized by population densities divided into urban, suburban and rural regions. Further, there were other factors to consider, such as the geography of the region (including the Halifax peninsula, Halifax Harbour, and HRM's extended coastline) and the important transportation routes in the Municipality.

[35] While the hearing process before the Board revealed a number of difficulties with some of the proposed polling district boundaries, the Board is satisfied that the distribution of polling districts drawn by HRM, with the exceptions canvassed below, is generally reasonable.

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

[37] The drawing of polling district boundaries is not a straightforward task. The Board accepts the view of Ms. Mellett that the task is "one part science and one part art." Thus, in conducting this exercise, a municipality (or this Board on an application) must take into account, and apply, concurrently, all the factors listed in s. 368(4) of the *Act*, together with the factual considerations which exist in the matter before it. The task is also a fluid exercise. Thus, judgment is inherent in the process and, as further facts are received, a refinement of the polling district boundaries may

become necessary. At some point, however, the practical considerations will require that the boundaries be established for the next municipal election and be reassessed during a subsequent review. The objective of the exercise, in the Board's view, is that the factors in s. 368(4) and the underlying facts are applied in as balanced a fashion as possible in the circumstances.

[38] Taking into account the above considerations, the Board considers that it is appropriate to remedy a few difficulties which the evidence identified with HRM's application.

[39] In summary, the Board adopts HRM's Scenario 1 - Revised, with adjustments to a polling district which comprises all of the Cole Harbour area and another polling district which comprises the Middle Sackville, Upper Sackville, Lucasville and Beaverbank areas. However, the eastern portion of HRM, comprising, among other communities, Waverley, Fall River, Enfield, Musquodoboit, Lawrencetown, Porters Lake, Chezzetcook and Ecum Secum, is to be divided into northern and southern polling districts, in a configuration similar to that contained in Scenario 2 - Revised.

[40] As discussed with the parties at the conclusion of the hearing, the Board held a confidential session with Mr. Lenihan, HRM Technician, on December 15, 2011. The purpose of the session was simply to confirm that the voter adjustments resulting from the Board's boundary changes accurately reflected the Board's calculations. In all cases, Mr. Lenihan's calculations, using HRM's GIS data, confirmed that any variances from the Board's calculations were insignificant.

[41] The Board received specific comments on several parts of the polling district configuration submitted by HRM. The issues and the public submissions specific to each of these areas, as well as the Board's findings, are canvassed below:

a) Cole Harbour/Cherry Brook/Lake Loon

[42] The evidence on the Cole Harbour issue from the CH Committee and from many members of the public is set out earlier in this Decision.

[43] The Board accepts the evidence of the CH Committee, as well as that of the members of the public who spoke at the evening session and wrote letters of comment, stating that Cole Harbour should form its own polling district. Taking into account all of the evidence, the Board concludes that there is a strong community of interest in the Cole Harbour area. In its view, this conclusion is supported by strong and compelling evidence, which it details below.

[44] First, the residents of the Cole Harbour area share several strong common interests, including neighbourhood and business interests. Cole Harbour represents a well recognized shopping and business destination for the local community.

[45] Second, in addition to sharing strong historical and cultural ties, the residents share strong social and recreational interests. The Board heard much evidence about the community organizations and associations which play an important part in the lives of area residents. These groups include many different entities across a broad scope of the residents' activities.

[46] Third, the area is served by institutions or facilities that are well recognized in the community and which provide a focus for its citizens. The various schools and churches in the area serve as important community centres which strengthen the bonds

between residents. Moreover, Cole Harbour Place, a major recreational facility in the area, was built by the community itself, which committed significant financial resources and time to building this important facility. While Cole Harbour Place is, in the end, a recreational facility similar to others, it uniquely represents the product of a strong community spirit having the objective of advancing the individual and collective well being of its residents.

[47] Finally, the Cole Harbour area is well defined and recognized by its residents. It assembles, among others, the transportation corridors of Cole Harbour Road, Forest Hills Parkway and portions of Main Street. Neighbourhoods such as Colby Village, Flying Cloud Drive, Chaswood Drive, and Forest Hills clearly identify with Cole Harbour.

[48] It is also clear from the evidence that the community of Westphal has a close association with the adjacent community of Cole Harbour for the same reasons as noted above. Thus, Westphal should be included in any polling district which comprises the Cole Harbour area.

[49] Moreover, the communities of Cherry Brook, Lake Loon and Lake Major should, likewise, be included in a Cole Harbour polling district. This very issue was already canvassed extensively by the Board in its 2007 Decision [2007 NSUARB 166]. The Board adopts the reasons in its 2007 Decision on this point, and it accepts the further evidence provided in this hearing by those witnesses and written submissions requesting that a Cole Harbour polling district include the communities of Cherry Brook, Lake Loon and Lake Major.

[50] The Board is mindful that HRM had considered combining the Cole Harbour area and immediate surroundings (e.g., such as Colby Village, Westphal and Cherry Brook, etc.), but determined, among other factors, that such a polling district was too heavily populated, so as to offend the principle of relative parity of voting power under s. 368(4) of the *Act*.

[51] However, HRM submitted Scenario 1 - Revised, which, as noted above, effectively divides the well recognized area of Cole Harbour into three parts. In the Board's view, dividing a well recognized and strong community of interest in this fashion should, if possible, be avoided. Indeed, such strong communities of interest, that respect the principle of relative parity of voting power, should be protected. In this case, the resulting variance of 3.3% is well within the Board's target guideline of $\pm 10\%$.

[52] Taking into account the above findings, the Board finds that the Cole Harbour area represents a strong community of interest and it should be afforded its own polling district within HRM. The polling district shall include Colby Village, Flying Cloud Drive, Sirius Crescent, Chaswood Drive, Forest Hills, Westphal, Cherry Brook, Lake Loon and Lake Major (as shown on Undertaking U-10). This area represents 21,144 electors.

[53] While the Board received a few presentations asking that the communities of North Preston and East Preston (total 2,004 electors) be added to the Cole Harbour polling district from District C/3, the Board notes that this would increase the variance for Cole Harbour over 13% from the average number of electors per district. In the circumstances, the Board finds that the present boundary should be maintained on the eastern edge of the Westphal, Lake Major and Lake Loon communities.

b) Main Street Dartmouth

[54] The Board received submissions from members of the public and business associations respecting HRM's proposed boundary along Main Street, Dartmouth, in the vicinity of Tacoma Drive. While HRM's proposed boundary was intended to use Main Street to divide Districts E/5 and G/7, the public comments submitted that it would, instead, divide an important community of interest and business development area in that portion of Dartmouth.

[55] William Mills, the Executive Director of the Main Street, Dartmouth Business Improvement District, outlined its position as follows:

... Our membership is made up of approximately 180 restaurants, retail stores and business offices on Lakecrest Drive, Main Street and Tacoma Drive in Dartmouth. On behalf of our business members, I am writing to express concern with the proposed boundary line for HRM Polling District G7. I would also like to propose an adjustment to Polling District G7 that would be more compatible and in harmony with the existing communities.

The area serviced by the Main Street Business District includes the residential communities on both sides of Main Street. This area, consisting of Port Wallace, Westphal and Woodlawn has developed since about 1960 and was once known as the K-Mart area or the Prince Andrew High School district. We have been working to grow community spirit in the Main Street area and to encourage residents, businesses, schools, churches and other organizations to embrace the community. Our goal is to bring back a sense of community to the Main Street area, where people will enjoy working, shopping and being entertained where they live.

Our concern with HRM Polling District G7 is that the proposed boundary on the south edge is down the centre of Main Street and that it divides our business improvement district and splits apart our traditional neighbouring communities. Our focus is to grow community in the area and we think that having a polling district boundary down the center of Main Street will divide the community.

... In order to keep our business community and residential community together and in the same polling district we would like to propose that the south boundary be moved from the center of Main Street to the centre of Mount Edward Road and Woodlawn Road to Portland Street. ...

[Letters of comment, Exhibit H-34]

[56] Andrew Younger, M.L.A. for Dartmouth East, and former HRM councillor for East Dartmouth/The Lakes, also expressed similar concerns during the evening session:

... And specifically I'm talking about the proposed districts G-7 and E-5 which I believe significantly violate the requirement of district boundaries under geography and communities of interest.

...

...The community of significant interest that was kept united in both Proposals 1 and Proposal 2 have been separated by the proposal presented to the Board and the public hasn't had a chance to comment on that.

Specifically what we see is that in the Regional Plan of HRM, HRM created a centre called the Tacoma Centre and that has been split in two [along the middle of Main Street] by this proposal, which would seem to violate the tenets of the Regional Plan as well. And that didn't happen in either Scenario 1 or Scenario 2 as presented to the public.

...

At the last boundary review, which occurred shortly before I was elected, before Regional Council it was made clear to those conducting the review that there was a strong desire to correct the boundary error that had previously happened which saw East Dartmouth divided down the middle of Main Street. That artificial division separated a community of interest, separated around everything from churches to schools to the business community, and it has been argued by many over the years that the division had made it more difficult to re-invigorate the Main Street business district because of competing interests in two districts. And the return of the entire Main Street area and the return of two sides of the connected residential community into one district was very, very important to residents and the business community, and a good portion of that community saw things happen. And while it would have been preferred at that time to also include the upper areas of Woodlawn, population per district didn't permit under a 23 councillor scenario.

...

... we need to look at the geography too. If you look at this proposal this new boundary was so poorly envisioned that in order to get from one half of the district to the other half of the district in the new proposed G-7 you would either have to cross through another district or take a canoe or swim through a lake.

...

That alone should tell you that that boundary does not make any sense. So you know the reuniting of that district after the last boundary review allowed a number of things to happen that had been stalled for a number of reasons such as the creation of that centre in the Regional Plan, the development of the Main Street Business Improvement District Association and a lot of work has gone forward in that because it's reunited.

[Transcript, pp. 294-298]

[57] The Board accepts the evidence provided by Mr. Mills and Mr. Younger. The Board finds that both sides of Main Street, in the vicinity of Tacoma Centre, should be contained within the same polling district (i.e., in District G/7). Accordingly, the current polling district boundary south of Main Street (along Spring Avenue and Portland Street) should be maintained. Moreover, the area along the north side of Mount Edward Road should also be included in District G/7. The transfer of these two areas represents the movement of 4,096 electors (as depicted in Undertaking U-13).

[58] Further, the Board concludes that the Lakeshore Park area should be transferred from District F/6 to G/7. This represents 106 electors. This will provide a contiguous link to the parts of District G/7 located on the opposite sides of Highway #118.

c) Portland Estates/Shearwater/Eastern Passage

[59] With the transfer of Colby Village (and its 9,254 electors) from the proposed District D/4 to the new Cole Harbour polling district approved by the Board, as well as the transfer of the area between Main Street and Portland Street to District G/7 (4,096 electors), and the transfer of Flying Cloud Drive and Chaswood Drive to Cole Harbour (2,558 electors), the remaining areas comprising Portland Estates, Portland Hills, Bell Lake, Cow Bay, Shearwater and Eastern Passage must be addressed.

[60] The existing polling district containing the Shearwater and Eastern Passage area extends in a westerly direction across the Circumferential Highway #111, along Pleasant Street, to the Old Ferry Road. As noted below, the area west of Highway #111 is now proposed to be included in the new District F/6 (Dartmouth Centre), which is intended to form a downtown Dartmouth polling district. This is

supported by the Downtown Dartmouth Business Commission. Subject to an amendment to the western part of that District, the Board considers District F/6 (bounded on the north and east by Highway #111) to be an appropriate polling district.

[61] However, the existing polling district comprising the Eastern Passage and Shearwater area also extends north along the eastern edge of Highway #111 to include the new Baker Drive interchange. As acknowledged by Councillor Barkhouse in questions by the Board during the evening session, the Baker Drive development includes a shopping destination and new housing.

[62] In letters of comment filed by members of the public, several also noted the desire of Portland Estates and area residents to be associated with the areas to the south (rather than north towards Cole Harbour). This leads the Board to conclude that there is a developing community of interest between Portland Estates and Portland Hills with Russell Lake and even beyond to the Baker Drive interchange.

[63] The Board received a few submissions in support of the view that there is a community of interest which extends from Portland Estates and Portland Hills to Russell Lake. An example is the following excerpt of a letter from Hugh Millward, President of the Portland Estates and Hills Residents' Association:

This submission is my letter of support for the Halifax Council's submission regarding polling district boundaries. I am particularly supportive of the recommended boundaries for proposed polling district E/5, in Dartmouth. I am a long-time resident of Portland Estates, and currently serve as president of the Portland Estates and Hills Residents' Association (PEHRA).

The HRM proposal for our district is very much in line with suggestions to HRM Council from myself and other PEHRA Board members. It keeps Portland Estates and Hills together in one district, and places us centrally within a compact district. The proposed district also contains adjacent communities with which we share much in common. These communities are Woodlawn, Ellenvale, Bel Ayr Park, Inishowen, and Russell Lake West. A major shared interest is that our children attend the same schools (particularly at the junior high and high-school levels). We also shop at the same shopping centres and use the same doctors, opticians, veterinarians, etc. We are served by the same municipal library, which is an important focus for the entire district.

For the Portland Estates and Portland Hills communities, the districts recommended by HRM are much superior to those outlined in "scenario 2". That scenario placed us at the edge of a huge district focussed on Eastern Passage and Cow Bay, with which our community has no ties. ...

[Letters of comment, Exhibit H-34]

[64] Taking into account all of the above, the Board concludes that a polling district be formed with Cow Bay, Eastern Passage, Shearwater, Baker Drive, Russell Lake, Portland Estates, Portland Hills and other neighbourhoods west of Portland Street (and to the east of Spring Avenue).

[65] With the exception of the area between Portland Street and Main Street being transferred from District E/5 to District G/7, the remaining area of District E/5 will remain intact and is being added to the region of Eastern Passage, Shearwater and Cow Bay.

[66] While the Board is mindful that some in Portland Estates and Portland Hills claim to have no association with Shearwater and beyond, the area of Portland Estates and surroundings (currently Polling District #7) is simply not populated enough to justify having its own District. The Board notes the community of interest of the Portland Estates area is not being divided, it is simply being added to other communities.

d) Dartmouth Centre

[67] Timothy A. Olive, Executive Director of the Downtown Dartmouth Business Commission, made a presentation at the evening session in support of District F/6:

In trying to preserve our particular history in the former City of Dartmouth, post-amalgamation, we never strayed from over 250 years of history and experience in guiding our economic, social, and cultural development...

Downtown Dartmouth and its areas of influence have that history. The district boundary submission before you meets the test of ensuring that the history of Dartmouth outlined as District F-6 becomes the beacon for our future development. The criteria for new boundaries was based on the number of voters, the family of schools affected, and the community of interest.

The majority of the 29,000 voters in Dartmouth proper are located in District F-6, which, by its configuration, meets all three criteria. New electoral districts adjacent to District F-6 now have an opportunity to develop their large -- their new larger communities, thus meeting the initial challenges of amalgamation. The revised electoral districts as presented will create larger communities of interest in these expanding areas of the municipality.

...

The revised District F-6 boundary is consistent with the new regional centre plan from HRM. This plan identifies a distinct area of economic growth and is part of the larger regional plan that promotes growth of the urban core and the commercial development of the capital district of HRM.

[Transcript, pp. 272-273]

[68] The Board accepts the evidence of Mr. Olive that downtown Dartmouth should be comprised in one polling district. This is also consistent with the comments received in the public consultation process conducted by HRM, which led to the proposed District F/6 submitted by the Municipality.

[69] With the exception of Lakeshore Park noted earlier in this Decision (i.e., the transfer of 106 electors to District G/7), the Board is satisfied that the Circumferential Highway #111 represents an appropriate and well-recognized landmark to serve as the polling district boundary along the northern and eastern edge of District F/6. While the Board is mindful that Highway #111 represents a departure from the current boundary now located west of Woodside, as noted by Councillor Jackie Barkhouse, the Board accepts the evidence of Mr. Olive to the effect that the inclusion of the Community College and Woodside Industrial Park in District F/6 is important to foster economic development with downtown Dartmouth.

[70] However, the Board considers that the western boundary should be extended to transfer an area from District G/7 to F/6. In response to questions from the Board, Ms. Mellett acknowledged that the transfer would be consistent with communities of interest in the area, particularly to the west of Jamieson Street and Boland Road.

[71] Accordingly, the Board directs that the western boundary of District F/6 be extended in a westerly direction to Albro Lake Road, Sea King Drive (both sides northeast of Leaman Drive), and including Lancaster Ridge. This represents a transfer of about 4,346 electors from District G/7 to F/6 (as shown on Undertaking U-12). The Board notes that this transfer will help to remedy the negative 9.9% variance proposed by HRM for District F/6. Such a large negative variance should be avoided in a compact urban district with relatively dense residential neighbourhoods.

e) Downtown Halifax

[72] Councillor Dawn Sloane, whose present polling district encompasses downtown Halifax, focussed, in general, on two areas: the requirement for reform of the municipal government structure, and the need for a district for downtown Halifax. She said:

...
So boundary criteria issues; the data for the population is the census from 2006. It's very outdated. Communities of interest are not being taken into account. Changes in the settlement patterns on the peninsula are rapidly changing.

And in fact, within the next two years, you are going to see more people moving onto the peninsula due to two to three -- actually, it's three new developments on Gottingen Street, the waterfront will be hosting more actual development as well. Internal conversions of homes not just into homes of one family, but into two and also taking into account granny flats.

...

[Transcript, p. 258]

[73] Gerald Walsh also argued for a downtown Halifax district, stating:

... my argument for you to create a downtown Halifax District is based on the fact that this concentrated geographic area creates a distinct community of interest that places probably the highest demand in HRM on the time and attention of staff and elected officials.

...

[Transcript, p. 267]

[74] Mr. Walsh submitted a map of what he thought the downtown Halifax district should look like. It would have a voting population of approximately 14,000 people. The reason for considering this as a separate district, in his view, is not so much the population that lives there, but for the approximately 40,000 people who work in the area, the heritage buildings, and the attraction of hundreds of thousands of visitors each year. His proposed downtown district, which coincides with that suggested by Councillor Sloane, was defined as the area bounded by South Street, Robie Street, Cornwallis Street and the Halifax Harbour.

[75] Don Mills, who participated as a formal intervenor in the first phase of this proceeding, submitted a letter of comment which also urged the Board to allocate three polling districts to the Halifax peninsula. He supported Mr. Walsh's position.

[76] The downtown district, as proposed by Councillor Sloane, Mr. Walsh and Mr. Mills, would have a large negative variance (from the average number of electors) of approximately 31%. Relative parity of voting power is the most important criteria in determining polling districts. If all of the other factors were equal then there would be no variance from the average number of electors between polling districts. A variance is allowed to accommodate the other factors noted in s. 368(4) of the *Act*.

[77] In general, the Board finds the application of the other criteria in s. 368(4) of the *Act* to allow a voter population variance greater than $\pm 10\%$ in the urban built up

areas to be less compelling than it would be for large, sparsely populated rural areas. The Board has indicated it will allow properly justified variances up to $\pm 25\%$ where large geographic areas and communities of interest justify the departure from the standard which normally applies. It would be difficult to conceive of a circumstance where the Board in HRM would allow a variance of 31%.

[78] The Board finds there is not sufficient reason, as defined in the *Act*, to create a special downtown Halifax district as defined by Councillor Sloane and Mr. Walsh. Further, the Board does not have any jurisdiction to deal with the municipal government structure, as urged by Councillor Sloane.

f) Sackville and area

[79] Various speakers at the evening session submitted that HRM's proposed District B/2 (Fall River/Waverley/Beaverbank/Sackville) does not reflect recognized communities of interest in the area. Some also stated that Lucasville has a community of interest with Sackville, rather than with other communities in HRM's proposed District N/14 such as Tantallon, St. Margaret's Bay and Hubbards.

[80] Steve Craig, of Lower Sackville, expressed several concerns about HRM's proposed polling district boundaries under Scenario 1 – Revised. Mr. Craig stated that he understands the diversity of communities of interest in this area, having served as Elections Canada Returning Officer for the electoral district of Sackville/Eastern Shore during the last two federal general elections. He is also Chair of the Cobequid Community Health Centre.

[81] First, he presented a request, supported by a petition of 60 households, that the Stonemount Subdivision be included with Lower Sackville in District O/15,

where it has been situated since its development, rather than in the proposed District B/2 with Waverley/Fall River. He said that Stonemount is included in the municipal planning strategy for Sackville and that students from the subdivision attend Sackville area schools.

[82] Second, Mr. Craig submitted that the Beaverbank area, as well as Middle and Upper Sackville, should be associated with Lower Sackville rather than Waverley/Fall River:

When the engagement of community happened in Sackville, a number of folks were present who said, traditionally Sackville included Lower Sackville, Middle Sackville, Upper Sackville, Beaver Bank, and Lucasville. There are a number of folks who commented that Beaver Bank had been separated in the last boundary redistribution in with -- and when I say Beaver Bank, I mean Beaver Bank and Kinsac -- in with Waverley, Fall River and so on.

The people at the meeting had asked for a correction of a wrong, if you will, at that point. And I was quite surprised when I saw the actual recommendation by HRM to this Board. So we went from a community of interest, if you want to define 1 that as being a name, of Lower Sackville, where they lopped off a little bit, Stonemount subdivision, yet included a little bit more of Middle Sackville. And we have now a separation of Middle and Upper Sackville and Upper Sackville you cannot even get to the rest of B-2 without major roads and going down through and connecting. So I really don't understand how the decision was arrived at...

[Transcript, pp. 315-316]

[83] Third, Mr. Craig also stated that the Lucasville and White Hills area [proposed by HRM to be in District N/14 with communities like Tantallon, St. Margaret's Bay and Hubbards] falls within the catchment area for Sackville amenities, including schools, recreational facilities, shopping destinations and the Cobequid Community Health Centre.

[84] Ward Dicks is the President of the Springfield Lake Community Centre located in Upper Sackville. He stated that the Springfield Lake Recreation Association manages all HRM owned recreational facilities in Middle and Upper Sackville. His Association is very concerned that dividing the Upper and Middle Sackville area from

Lower Sackville, and joining these communities with District B/2 (Waverley/Fall River), will jeopardize the strong ties which exist between the Sackville communities. Further, he is worried that separating these communities will threaten the community events and partnerships that rely on businesses and community organizations in Lower Sackville.

[85] Mr. Dicks urged the Board to avoid "breaking up the Sackville community".

[86] Nick Antoft resides in Waterstone Village in Lucasville. He serves as Chair of the Waterstone Community Association and he is a member of the Greater Hammonds Plains Communities Associations Steering Committee. He has also participated in HRM's Middle and Upper Sackville/Lucasville Community Visioning.

[87] In his view, Lucasville has a community of interest with the Sackvilles. HRM's proposed District N/14 joins Lucasville with communities such as Hammonds Plains, Tantallon, St. Margaret's Bay and Hubbards. Mr. Antoft stated:

...The area where I live, the Waterstone village area of Lucasville, has always had community connections to Sackville area. The original land grants were laid out to the west of old Highway 1 until the construction of the Highway 101. Our families of schools are those in the Middle and Upper Sackville area, are the Millwood High family of schools which include Sackville Heights and Millwood High, and not those in Hammonds Plains or Hubbards.

Fire services provided by the Millwood Fire Station Number 10, part of the Sackville system; policing is provided by the Sackville RCMP detachment. People in my community shop and go to church in Sackville, there's a Sport and Rec facility in Sackville that's well-attended as well as a concert at the Weir Field, which I helped with security this year. My property deed lists the address as Middle Sackville.

...
The planning area that we live in is the Hammonds Plains/Middle Sackville/Beaver Bank Municipal Planning Strategy.

...
...in the immediate area is McCabe Lake part of the Sackville Watershed. The development around this area -- the development of the area around this lake should be the focal point of the Council district as opposed to it being the focal point of three districts [i.e., proposed Districts O/15, B/2 and N/14]...

...

With the proposed boundary as presented by HRM, how does it impact the school hierarchy? Three districts would feed into the Millwood family of schools.

...

The Waterstone Community Association of which I'm currently Chair is disappointed in the potential outcome of this process. We -- the Association and the Board feels that our inherent connection is to Sackville as opposed to as far west as Hubbards.

[Transcript, pp. 399-402]

[88] Mr. Antoft also confirmed that there is no practical transportation linkage between Beaverbank and Waverley/Fall River:

There are absolutely no connections between Waverley/Fall River and Upper and Middle Sackville. There's actually a barrier; there's a train track that goes to Windsor that carries -- carries or carried gypsum. There's no -- other than some wood [roads], there's no ability to cross that other than when you go down as far south as the Beaver Bank Road. So it's a -- when you talk about the connections of communities there's absolutely not one there.

[Transcript, p. 402]

[89] The Board has also reviewed HRM's application on the subject of the Sackville area. The views outlined above are consistent with the majority of the submissions that were made by local residents at the public information meeting held at the Sackville High School.

[90] In response to a question from the Board, Ms. Mellett confirmed that the Margeson Drive and McCabe Lake area is targeted by HRM as a growth area in the Municipality.

[91] The Board is satisfied, from its review of the evidence, that the communities of Middle Sackville, Upper Sackville, Beaverbank and Kinsac, collectively, enjoy a strong community of interest. These four communities, combined, do not have a sufficient number of electors to form a polling district. Further, while these communities also have a strong community of interest with Lower Sackville, combining

all the Sackvilles, Beaverbank and Kinsac into one polling district would result in a polling district which is much too large in terms of relative parity of voting power (i.e., even all the Sackvilles together, without Beaverbank, would have a variance from the average number of electors of approximately 35%). This would be unacceptable, considering that the Margeson Drive area of Upper Sackville is projected to see significant growth in the next few years.

[92] However, the Board finds that the communities of Upper and Middle Sackville (north of Margeson Drive) and Beaverbank have a greater community of interest with the Sackville area (south of Margeson Drive) than with the Waverley/Fall River area. As noted in the evidence, the residents of the Sackville area (north of Margeson Drive), as well as Beaverbank, conduct their shopping, business and recreational activities in Lower Sackville. The area is also within the same local planning district, and within the same family of schools. There was nothing in the evidence to suggest these are interests that the Upper and Middle Sackville and Beaverbank communities share with the Waverley/Fall River area.

[93] Moreover, there is no easy road access between Beaverbank and Waverley/Fall River, except through Lower Sackville, via Cobequid Road. Needless to say, there are numerous means of road access between Beaverbank, Upper Sackville and the Lower Sackville area, including Beaverbank Road, Highway #1 and Highway #101.

[94] The Board also accepts the evidence that the Lucasville area has a greater community of interest with Sackville than with most of the remaining area of District N/14 (Tantallon and St. Margaret's Bay). As noted in the evidence, residents of

Lucasville and Sackville share many business and recreational activities, schools and planning committees.

[95] Accordingly, the Board finds that a new polling district should be formed, comprising Beaverbank, Kinsac, Upper Sackville, Middle Sackville and the Lucasville area (including the area having 1,395 electors shown on Undertaking U-14).

[96] The Board heard evidence that HRM Regional Council has recently approved new community boundaries for Lower, Middle and Upper Sackville. In fact, the community of Middle Sackville extends much further south than Margeson Drive, towards Lower Sackville. Given this backdrop, the Board considers that the HRM approved community boundary between Middle Sackville and Lower Sackville offers a recognized boundary between the new Middle and Upper Sackville/Beaverbank polling district and Lower Sackville (District O/15).

[97] The Board recognizes that this new polling district will have a high negative variance (i.e., minus 18.8%). However, the region has been identified as a high growth area by HRM, especially in the Margeson Drive area. Over the next few years, this variance should reduce.

[98] Finally, the Board finds that the Stonemount Subdivision should be included in the Lower Sackville polling district, not with Waverley/Fall River. There is a strong community of interest with Lower Sackville, as confirmed by the petition of 79 residents of Stonemount to remain in Lower Sackville (District O/15).

g) Otter Lake and Birch Cove Lakes watersheds

[99] Mary Ann McGrath, Chair, Kearney Lake Residents Association, spoke to the importance of keeping the Kearney Lake/Papermill Lake Watershed areas with the

Kearney Lake Community in one polling district. The watershed area is generally in District L/12, while the downstream areas are generally in Districts J/10 and P/16. Ms. McGrath noted that the watershed of the Birch Cove Lakes System, which enters the Bedford Basin at Mill Cove, has a significant effect on the communities along Kearney Lake, with little effect on the communities of Timberlea and Beechville. She added that issues relating to the watershed are overseen by the Bedford Waterways Advisory Board. Debbie Hum, Councillor District 16, also spoke to the attachment of the Kearney Lake Community with the Kearney Lake/Papermill Lake Watershed area.

[100] Wayne Hamilton, Brookside Community Homeowners Association, presented information with respect to his district (District M/13), the Otter Lake and downstream areas. He stated that it is his belief that it is the intent of HRM Council to support downstream interests. He noted that it appears that the proposed boundaries include upstream, not downstream areas. Mr. Hamilton requested that the boundaries be changed slightly so, amongst other items, Otter Lake and all the related downstream watershed and communities (i.e., Prospect Road area, Brookside and Goodwood) are located in one district. He explained that his suggestion, while protecting the communities downstream from Otter Lake, would have no affect on voter counts as there are no residences in that area of the Western Commons or Otter Lake.

[101] Given the public comments, the Board questioned HRM as to whether it is its intent that watershed areas should be included within the same polling district as their downstream communities. Ms. Mellett stated that although it is not a specific intent of HRM, it is one of the items considered in a balanced review process. [Transcript, pp. 545 - 546]

[102] The Board commented that a polling district located downstream of a watershed area may have concerns, to which Ms. Mellett agreed, noting that the area would likely be included within one community council. She further confirmed that it has been a HRM model to have oversight committees, such as watershed advisory committees, that represent residents and Council for surrounding districts, regardless of political boundary lines. [Transcript, pp. 561 - 562]

[103] In response to Undertaking U-20, HRM provided a map of the area of the Paper Mill Lake Watershed, which indicates the watershed flow direction. The response further included a watershed flow chart indicating the origin and direction of flows in the watershed (which eventually drains into Mill Cove and Bedford Basin), and a map of the Otter Lake area.

[104] Taking into account all of the evidence, the Board concludes that there is no overriding consideration which would cause it to find that all watershed lands and their downstream areas should be contained within one polling district. Indeed, it is possible that watershed and downstream areas could conceivably cover a very large geographic area across various polling districts. However, as noted by Ms. Mellett during the hearing, residents potentially impacted by a watershed could relay their concerns through their own councillor to Regional Council, even if the watershed is located in another polling district. Moreover, residents also have recourse through their Community Council on planning issues and through watershed advisory committees.

[105] The Board also notes that HRM called Councillor Reg Rankin as a witness to testify about the proposed boundary between Districts L/12 and M/13, specifically in relation to issues arising out of the Otter Lake landfill facility. In his view, and that of Ms.

Mellett, it is important to retain the landfill facility in District L/12 because issues related to the landfill have a potentially greater impact on the communities of Lakeside, Beechville and other populated areas along St. Margarets Bay Road. The Board accepts Councillor Rankin's evidence on this point, providing a further reason why the proposed boundary should be retained, with the amendment noted below respecting the Western Wilderness Common.

h) Kearney Lake and Wedgewood Park

[106] Ms. McGrath also submitted that HRM's proposal under Scenario 1 – Revised divides the community of interest which exists among the communities of Kearney Lake, Wedgewood Park, Birch Cove and Rockingham. Under HRM's proposed configuration, Kearney Lake and Wedgewood Park have been included in District L/12 (Clayton Park West/Beechville/Timberlea), while Birch Cove and Rockingham are located in District J/10 (Fairview/Clayton Park).

[107] Having reviewed the evidence, the Board finds that the Kearney Lake community of about 60 homes (114 electors) should be moved from District L/12 to J/10 (i.e., Undertaking U-18).

[108] However, the Board finds that Wedgewood Park should remain in District L/12. While the Board is mindful that the Wedgewood Park area is an older development than Farnham Gate and Clayton Park West adjacent to it, it is served along the same transportation corridors as those other neighborhoods (Kearney Lake Road, Dunbrack Street and Highway #102). Moreover, the electoral size of Wedgewood Park (i.e., 1,611 electors) hinders its transfer to District J/10, which is already approaching a 10% variance.

i) Prospect Road / Western Wilderness Common

[109] Earlier in this Decision, the Board already addressed submissions by residents of Brookside and Prospect Road about the Otter Lake Watershed and downstream lands in Districts L/12 and M/13, respectively.

[110] However, during the presentation of Wayne Hamilton of the Brookside Community Homeowners Association, he noted that the communities along Prospect Road had developed a new Prospect Road Rec Centre that will, in addition to other functions, serve as a gateway to the Western Wilderness Common. While Prospect Road and the Common are currently in the same polling district (i.e., Polling District #22), HRM's proposal under Scenario 1 – Revised places a boundary between the two (L/12 and M/13).

[111] In the session of November 9, 2011, HRM suggested a possible solution to address this issue. HRM staff suggested that a portion of the Western Wilderness Common could be transferred to District M/13 to accommodate the communities' efforts to promote, access and enjoy the Common.

[112] The Board approves this change to the polling district boundary. No electors are affected by this change (Undertaking U-19).

j) Waverley/Fall River and Eastern Shore

[113] The Board's findings relative to Cole Harbour, Sackville/Beaverbank and Waverley Road do have an impact on the remaining eastern portions of HRM, including Waverley/Fall River, Enfield, Lantz, Upper Musquodoboit, Porters Lake, Chezzetcook, Sheet Harbour and the remainder of the Eastern Shore.

[114] From the Board's review of the evidence, it is clear that there are differing views of how the eastern polling districts should generally be configured. This divergence is reflected in the different configurations for the eastern districts in Scenario 1 – Revised and Scenario 2 – Revised.

[115] Generally, the thrust of Scenario 1 – Revised encompasses all the rural communities in the eastern portion of HRM into one polling district. Scenario 2 – Revised generally divides the eastern portion of HRM into a northern district (along Highway #102, and Highways #212 and #224 to the Upper Musquodoboit area) and a southern district (along Highways #107 and #7).

[116] The task is aggravated by the very large rural nature of HRM's eastern regions. The configuration of districts in the eastern region will, necessarily, be impacted by the configuration of polling districts in the central part of HRM (adjacent to Cole Harbour, Dartmouth and Sackville/Beaverbank). The transportation network will play an important role as well, because of the limited access between some of the rural areas in the eastern region. Finally, the Board needs to take into account the potential for future development in parts of the eastern region, particularly in the areas closer to the urban and suburban core.

[117] Taking all the evidence into account, the Board concludes that the eastern portion of HRM should follow a configuration having northern and southern polling districts.

[118] The southern district will include the communities of Lawrencetown, Porters Lake, Chezzetcook, and the communities along the Atlantic shoreline to Ecum

Secum. The Board notes that this polling district would have an acceptable variance of 8.5%.

[119] The northern district will include the communities of Waverley, Fall River, Enfield, Lantz, Milford, Wyse Corner and Upper Musquodoboit. While the resulting variance is relatively high, at negative 18.4%, the Board considers this to be justified in light of the large rural area included in this polling district. Further, the Board notes that the Fall River area is considered to be a growth area in HRM. This growth should mitigate the negative variance in future years.

[120] During the hearing, both in letters of comment and in the evening session, public submissions were made respecting the proposed boundary between Districts G/7 and B/2. Specifically, a presentation was made by Allison McEachern of the Waverley Ratepayers Association. She indicated that the traditional voting boundary between Waverley and Dartmouth has been at a midpoint between the canal which separated Lake William and Lake Charles. More recently, the boundary recognized in the area has been the Highway #118 overpass, where it intersects Waverley Road.

[121] The Waverley Ratepayers Association filed a petition of over 100 residents requesting that the boundary be restored to the overpass on Waverley Road (i.e., to move civic numbers 1050 and above into Waverley and District B/2).

[122] The Board considers the request to be in accord with the community of interest recognized in the area and it approves the change. This transfer, alone, moves 207 electors.

[123] However, the Board considers that the southern boundary of District B/2 should move even further south along Waverley Road. First, the Board notes that the

community boundaries of Waverley (as recognized by HRM) extend even further south than the overpass to include Spider Lake Road and Willowhill Ridge (211 electors). Also, immediately south of that boundary is the intersection of Waverley Road and Montague Road, with a relatively large number of households in the Craighburn Drive and Rocklin Drive area. Also, Montague Gold Mines, now in proposed District C/3, is near Waverley Road.

[124] The Board must place the boundary at a reasonable location, considering the factors in s. 368(4) of the *Act*, including community of interest, but also relative parity of voting power, geography and population density, together with other factors listed earlier such as transportation corridors.

[125] Taking all the above factors into account, the Board considers that the boundary between Districts B/2 and G/7 should be the watercourse and stream which intersects the Waverley Road to the south of the Craighburn Drive/Rocklin Drive area, near the southern end of Lake Charles. The total number of electors moved to District B/2 is 1,299 (as represented in Undertaking U-11).

[126] Further, the Board considers that the area within the community boundaries of Montague Gold Mines should be transferred to District B/2 from C/3 (225 electors).

[127] The Board recognizes that the HRSB opposes the adoption of a Scenario 2 type configuration, for its reasons set out earlier in this Decision. However, the issue to be addressed in this Decision relates to municipal boundaries. Accordingly, that has been the primary consideration of the Board. If the HRSB requires a departure from the municipal boundaries set in this Decision in order to set their own school board districts,

it will have to provide evidence to support a departure from its present methodology of pairing up the 16 HRM polling districts to form 8 HRSB electoral districts.

VII CONCLUSION

[128] Taking into account all of the evidence, the Board concludes that the proposed boundaries of the 16 polling districts, as proposed by HRM, with the amendments noted above, are reasonable and appropriate. The Board is satisfied that this configuration of polling districts represents accepted communities of interest within HRM and, in the context of the large eastern geographic rural area of HRM, the configuration results in an appropriate variance from the average number of electors per district. In the Board's opinion, this rural area of District B/2 represents one of the exceptional cases which justifies a departure from the $\pm 10\%$ variance that normally applies. Likewise, the larger negative variances in the Upper Sackville and Sackville polling districts (i.e., -18.8% and -13.2%, respectively) are also justified because of the significant growth expected in the Margeson Drive area.

[129] As a result of the above changes to the polling district boundaries approved by the Board, the resulting voter statistics and variances are outlined in the following Table:

Polling District*	Name*	Electors	Variation from Avg. Number of Electors	
			#	%
A/1	Eastern Shore	22,218	1,742	8.5%
B/2	Fall River	16,707	(3,769)	(18.4%)
C/3	Cole Harbour	21,144	668	3.3%
E/5	Dartmouth East	22,332	1,856	9.1%
F/6	Dartmouth Centre	22,690	2,214	10.8%
G/7	Dartmouth North	20,079	(397)	(1.9%)
H/8	Peninsula South	21,127	651	3.2%
I/9	Peninsula North	22,064	1,588	7.8%
J/10	Fairview	22,380	1,904	9.3%
K/11	Peninsula West	22,392	1,916	9.4%
L/12	Clayton Park West	21,814	1,338	6.5%
M/13	Spryfield	20,116	(360)	(1.8%)
N/14	South Shore	18,438	(2,038)	(10.0%)
O/15	Lower Sackville	17,775	(2,701)	(13.2%)
P/16	Bedford	19,715	(761)	(3.7%)
Q/17	Upper Sackville	16,623	(3,853)	(18.8%)
TOTAL		327,615		


*Note: The titles and numeral designations noted above are for convenience only.

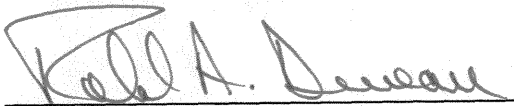
Total number of electors:	327,615
Number of councillors:	16
Average number of electors per councillor	20,476

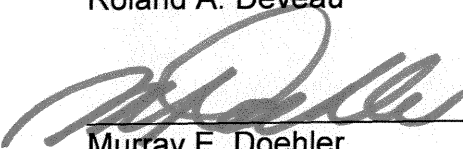
[130] The Board approves the polling district boundaries, as amended.

[131] An Order will issue following the filing of revised maps and descriptions of the polling districts. HRM may assign the polling districts the titles and numerical designations it deems appropriate.

DATED at Halifax, Nova Scotia, this 20th day of December, 2011.


Peter W. Gurnham


Roland A. Deveau


Murray E. Doehler