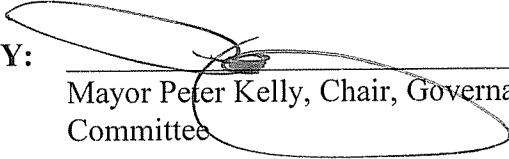


TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
Mayor Peter Kelly, Chair, Governance and District Boundary Review
Committee

DATE: June 11, 2010

SUBJECT: Phase I Recommendation - District Boundary Review

ORIGIN

The decision of the Nova Scotia Utility and Review Board (“UARB”) dated November 22, 2007 requiring HRM to undertake a comprehensive review of the number and boundaries of polling districts in advance of the 2012 municipal election, to be filed with the UARB no later than December 31, 2010.

The Motion of Regional Council of August 4, 2009 striking a Committee of Council and adopting a two phase approach for the Review: 1) for the Committee to make a recommendation as to the size of Regional Council and 2) for the Committee to make a recommendation on the setting of specific boundaries.

RECOMMENDATION

In response to its completion of Phase I of the District Boundary Review, the Governance and District Boundary Review Committee recommends that Halifax Regional Council:

1. Approve the reduction of Halifax Regional Council to 20 Councillors plus the Mayor, with four Community Councils each composed of five Districts;
2. Seek amendments to the *HRM Charter* that will allow Halifax Regional Council to delegate general authority to community councils for local matters, with the intent that the delegation of this authority evolve over time;
3. Approve in principle the vesting of authority to Community Councils for the establishment of area rates for enhanced services deemed by Halifax Regional Council to be local, if the

necessary amendments to permit this are made to the HRM Charter; and

4. Approve the adoption in principle by Halifax Regional Council of the use of Consent Agendas, with the goal of achieving greater effectiveness at Regional Council meetings.

BACKGROUND

Section 369(1) of the *MGA*, requires the council of a municipality to conduct a study of the number and boundaries of polling districts in the municipality, their fairness and reasonableness, and the number of councillors every eight years, beginning in 2006. HRM did not undertake such a study in 2006 and has now been ordered by the UARB to do so in 2010, in preparation for the 2012 municipal election.

The factors that the UARB will be required to consider when reviewing Council's application are set out in section 368(4) of the *MGA*:

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.

The UARB has adopted the rationale of the leading 1991 Supreme Court of Canada case regarding polling district distribution (*Reference Re: Electoral Boundaries Commission Act* (referred to as the *Carter* decision)). The Supreme Court of Canada found that while voter parity is of prime importance, other factors should also be considered. The UARB has listed the following other factors to be taken into consideration: history, recreational issues, tax rates (ie: area rates), services (water and sewer), fire protection service area, traffic infrastructure and pattern, planning boundaries, languages and ethnic origin, school districts, and shopping patterns and business centres.

A review of previous decisions of the UARB in district boundary matters was provided to Council as Appendix A of a Report to Council dated August 4, 2009 (Binder, Tab 5). In 2004, the Board stated:

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

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

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

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

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

By motion of Regional Council on August 4, 2009, Council struck a Committee of Council and adopted a two phase approach for the Review: 1) for the Committee to make a recommendation as to the size of Regional Council and 2) for the Committee to make a recommendation on the setting of specific boundaries.

The Committee has now completed Phase I of the Boundary Review process, having examined preferred governance models, examined other municipalities, and heard from members of the public.

The recommendation of the Governance and Boundary Review Committee, as directed by Council, is now before Council to ratify or amend the number of districts and size of Council. This decision of Council is required to enable staff to proceed with Phase II of the process: drafting boundary revisions for final public consultation on those specific boundaries and final Council ratification in Fall 2010.

DISCUSSION

The UARB has, in a number of its decisions, commented on the need to consider governance as part of determining the appropriate number of councillors:

... the approach should not involve an examination of how the status quo is to be altered. Instead, the approach should determine how many councillors are required to conduct regional governments' matters... (2000 NSUARB 44 at paragraph 32)

... Determining the size of Council involves the consideration of the desired (governance) style of Council, the governance structure of Council, and a determination of an effective and efficient number of councillors.... (2004 NSUARB 11 at paragraph 108)

Comments such as these guided the Committee in its approach to Phase I of the Boundary Review.

Review Process

The Governance and District Boundary Review Committee first met on October 1, 2009, and continued to meet, on average, twice per month thereafter until it reached its recommendation.

Thirteen committee meetings have been held to date. During that time, the Committee:

- ▶ gathered information respecting representation in other municipalities in Nova Scotia and across Canada (Binder, Tab 9);
- ▶ surveyed members of Halifax Regional Council (Binder, Tab 7);
- ▶ requested citizen input through an online citizen survey, which received 47 responses, and written submissions through its website at www.halifax.ca/boundaryreview (Binder, Tab 7); and
- ▶ conducted seven public meetings in conjunction with Community Councils, which had a total attendance of approximately 400 with 72 speakers (Binder, Tab 7).

The Committee also made use of responses to governance questions in the HRM Citizen Survey conducted by Thinkwell (Binder, Tab 7).

Issues

Municipal government is the level of government closest to the people, and the one to which they have the most access. The challenge facing the Committee following its public consultation was to accommodate residents' desire for direct access to their councillor with their concerns that Regional Council was being ineffective at a higher level and that local issues should be dealt with at a local level.

During the public consultation process, the Committee did not hear an overwhelming desire for change in the size of Council. Written submissions tended to favour a smaller council (generally between 12 and 18), while speakers at the public meetings tended to support maintaining the status quo with respect to the number of councillors. There was little support for a substantial reduction in the number of councillors with a corresponding shift in governance to a Board of Governors model. The Halifax Chamber of Commerce is in favour of a reduction in the number of councillors to 15.

During the consultations, the Committee did identify the public's call for a more *effective* Council. In keeping with its mandate to examine issues of governance and district boundaries, the Committee focused its deliberations on making Halifax Regional Council a more effective decision-making body, with a reduction in the size of council as one tool for achieving that goal.

Based on the feedback received through the public consultation process, the public sees "effectiveness" as:

- ▶ increased focus by Regional Council on issues of regional importance;
- ▶ decreased parochialism; and
- ▶ more effective methods of garnering and considering the input of residents.

The Committee has acknowledged that some of these concerns can be addressed by Regional Council as it exists currently, both through its processes (for example, strict adherence to Administrative Order 1) and through the actions of its members.

However, the Committee is going further by recommending that Council address this desire for a more effective Council in several additional ways:

1. By reducing the size of Halifax Regional Council to 20 councillors plus a Mayor;
2. By realigning Community Councils to establish 4 Community Councils, each with 5 councillors;
3. By requesting legislative amendments to permit Regional Council to delegate additional decision-making power to Community Councils; and
4. By adopting a "Consent Agenda" procedure for Regional Council.

Reducing the Size of Regional Council: The Councillor's Role & Citizen Representation

The Committee is recommending that the size of Regional Council be reduced to 20 councillors plus a Mayor. After considerable discussion, the number twenty was reached as a consensus between trying to achieve a more effective council while balancing the desires of constituents to have continued access to their councillor. The Committee was mindful that natural growth alone would raise the number of electors per district, and that any reduction in the number of council seats would further increase that number.

The guiding principles provided to the Committee by Regional Council on August 4, 2009 were:

- ▶ Regional Council be of a size appropriate to decision making of a regional nature; and
- ▶ Regional Council be of a size that supports a community council structure appropriate to community decision making.

Citizen feedback during the public consultation process highlighted a concern that a reduction in the number of councillors could lead to constituents having reduced access to their councillor. Based on population estimates for HRM for the next municipal election in 2012 (Binder, Tab 8), a council of 20 members will have 16,381 electors per district, compared to the 12,570 electors per district set by the UARB in 2007. Based on 2009 population estimates (Binder, Tab 8), councillors currently represent, on average, 13,612 electors.

However, by those same 2009 estimates, several councillors are already representing 15,000 to 16,000 electors and they do not report any concerns regarding their ability to meet those additional demands. Some members of the Committee did, however, express concerns about the ability of councillors to respond to increased demand associated with a larger number of constituents.

It was recognized by the Committee that many other municipalities across Canada with a higher voter to councillor ratio also provide their councillors with additional support, whether in the form of administrative assistants, constituency offices, etc. This would have to be balanced against citizen expectations regarding the level of personal service they desire from their councillors.

The responses to the Councillor Survey indicated that most councillors see their role as providing leadership in regional issues while at the same time representing community and district interests. There was also an acknowledgment that residents expect their councillor to advocate for their service issues, though perhaps the scope of the role could be addressed through better staff support, whether at the constituency level or improved staff responses to service issues (Binder, Tab 7).

These responses were consistent with the response of constituents to the Thinkwell Citizen Survey, where 86% of respondents agreed or strongly agreed that it is important that their local councillor works to deal with issues important to the local community and 84% agreed or strongly agreed that it is important that their councillor works to deal with issues of importance to the entire region. Further, 80% of respondents agreed or strongly agreed that it is important that their local councillor resolve issues that they have with HRM services (Binder, Tab 7).

The challenge to councillors is to be accessible and responsive to their constituents and their immediate daily concerns, while those same constituents are looking for Regional Council to be more effective when dealing with regional issues. A reduction of the number of councillors is not the only tool for achieving effective debate, but it should assist in achieving that goal by reducing the amount of time required to hear all of the voices around the table.

Community Councils: Their Role and Size

In its 2004 decision, the UARB recognized that community councils had become an essential feature of the governance structure of HRM, and acknowledged that to be effective they must possess a minimum size and not cover too large a geographic area. The UARB opined that no fewer than 18 to 20 councillors were needed if the then-current Community Council structure was to be maintained (2004, NSUARB 11, paragraph 64).

The Committee is interested in expanding the powers of community councils to include the ability to make decisions on local matters. Under the *HRM Charter*, Regional Council currently has very limited powers to delegate decision-making authority to community councils (set out in sections 30 and 31 of the *HRM Charter*: land-use by-law amendments and development agreements). However, Regional Council could currently grant community councils greater ability to make “recommendations” to Regional Council on local issues.

The Committee is recommending that Regional Council seek amendments to the *HRM Charter* to allow Regional Council to delegate general authority to community councils for local matters, with the intent that the scope of the delegation of this authority would evolve over time. This would allow

local matters to be dealt with at the community council level, rather than being debated on the floor of Regional Council. The current Provincial Government has not been approached in relation to this issue, and Council should not make any decisions on the size of council solely on the basis that these amendments would be granted and community council powers would be expanded.

Council instead may make decisions on the size of council on the basis that the *HRM Charter* does provide for a much wider range of powers in which Community Councils can provide recommendations to Regional Council than they are currently, including:

1. Area rated services and projects
2. Appropriate by-laws, regulations, controls and development standards for the community
3. Appropriate user charges for different parts of the community
4. Appropriate level of services for an area and ways in which services can be improved
5. An annual budget recommendation for projects and services.

In those circumstances, recommendations made by Community Council would require ratification at the Regional Council level. For example, area rates would have to be ratified as part of the Annual Area Rate Budget, and would have to be compliant with HRM Tax Structure, Area Rate Policies, Multi-Year Financial Strategy, and governing legislation such as FRAM (Financial Reporting and Accounting Manual), and PSAB (Public Sector Accounting Board). Any budget recommendations from Community Councils would be considered as part of the annual corporate budget process for Operating, Capital and Reserves. This could be done in a similar fashion to other committees of Council: Regional Council respects the recommendations of its appointed committees unless the issue is one of more general regional interest, is a deviation from an approved policy, or creates a potential inequity which may require that Regional Council revisit the recommendation.

One concern that HRM Council should be mindful of is not creating a governance structure that will make it easier to make existing tax structure less transparent or equitable than it currently is. Another concern to be mindful of is not establishing a governance structure that will enable substantially different levels of service for different communities according to their financial capacity and ability to pay. These concerns need to be thoroughly reviewed, but are manageable through ensuring good policy and guidelines are set.

Although discussed by the Committee, no recommendation was made regarding the expansion of the mandate of community councils to include all existing powers. Staff has included in the Alternatives section of this report an additional recommendation on this that Council may wish to consider.

When examining the Community Council structure, the Committee recognizes that, based on the current variation in size of community councils, the ideal size for a community council is 5 councillors. This allows for representation of different perspectives without being too cumbersome, and limits the possibility of tie votes. Regional Council should determine boundaries based on

effective governance and not previous municipal boundaries, council relationships, or political interests.

Consent Agendas

The Committee is recommending that Regional Council approve in principle the introduction of Consent Agendas. This is a measure that the Committee believes will increase the effectiveness of Regional Council, and which can be implemented without requiring a legislative amendment.

Consent Agendas are used by various municipal governments across Canada (Binder, Tab 7), as well as other levels of government, to deal effectively and efficiently with non-contentious issues. Recommendations made by staff or committees (and potentially Community Councils) are placed on the Consent Agenda under an omnibus motion, which is passed by a single motion of Regional Council. The Committee recommends that if a councillor wants to remove an item from the Consent Agenda, that no motion of Council be required, only a request to the Clerk's Office from the councillor.

The Committee has suggested that under this system, councillors would be strongly encouraged to contact staff to try to resolve any questions they may have about an issue prior to requesting its removal from the Consent Agenda, and that staff would have to make themselves available to respond to such questions prior to Regional Council (for example, on Monday afternoon).

BUDGET IMPLICATIONS

Although a smaller council will result in some savings in councillor salaries, they may be offset by increased operating expenses owing to increased administrative and councillor support requirements. These cannot currently be quantified as they would depend on the needs identified by councillors and would be part of a future budget decision by Council. As districts increase in size, councillors may require additional support to meet residents' expectations.

With respect to recommendations #2 and #3, any future ability to delegate increased financial decision-making power to Community Councils could result in increased costs in administrative and staff support to the Community Councils and could trigger the requirement to amend the current area rate policy, and potentially HRM's tax structure. HRM Finance will work with the District Boundary Review Committee to develop recommended processes, identify policy changes required, and bring forward recommendations for discussion with HRM Council should those legislative amendments proceed.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The Committee requested citizen input through an online citizen survey and written submissions on its website (www.halifax.ca/boundaryreview), and conducted seven (7) public meetings in conjunction with Community Councils, which had a total attendance of approximately 400 with 72 speakers. The Committee also made use of responses to governance questions in the HRM Citizen Survey conducted by Thinkwell (Binder, Tab 7).

ALTERNATIVES

Council could approve Recommendation #1 (size of Regional Council and number and composition of Community Councils) and not approve either or both of Recommendations #2 and #3.

Council could amend Recommendation #1 to reflect a different number of councillors for Regional Council and/or a different number and composition of Community Councils, and approve both Recommendation #2 and #3.

Council could amend Recommendation #1 to reflect a different number of councillors for Regional Council and/or a different number and composition of Community Councils, and not approve either or both of Recommendations #2 and #3.

Council could add an additional recommendation that the mandate of Community Councils be expanded to include any or all of the existing powers available under the *HRM Charter*.

ATTACHMENTS

Binder entitled "Your Council. Your Say. HRM's District Boundary Review"

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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