

August 23, 2021

The Honourable Steve Clark
Minister of Municipal Affairs and Housing
17th floor - 777 Bay St
Toronto, ON M5G 2E2

Dear Minister Clark,

Re: District of Muskoka Modernization Review

This letter provides comments on behalf of 15 community associations (the “Associations”) across the District of Muskoka (the “District”) regarding the District’s municipal modernization review. Together our members and supporters represent approximately 62,000 (77%) of the District’s estimated 81,000 seasonal waterfront community. The seasonal waterfront residents comprise approximately 57% of the District’s total population.

The Associations have been following the District’s municipal modernization review closely and have made numerous written and verbal submissions as the review progressed over the past year. This includes a letter to you from the Muskoka Lakes Association (“MLA”), one of Canada’s largest and oldest cottager associations, and Friends of Muskoka (“FOM”), Muskoka’s largest cottager advocacy group, sent on September 21st, 2020.

As we expect you are aware, District Council approved maintaining the status quo for Council composition where the 3 Towns have 12 seats and votes and the 3 Townships have 10 seats and votes. That decision was then supported by the 3 Town councils (Bracebridge, Gravenhurst and Huntsville) but opposed by the 3 Township councils (Muskoka Lakes, Lake of Bays and Georgian Bay).

With this failure to achieve triple majority approval, the final decision on District Council’s composition is in your hands. In your June 1st letter to District Chair Klinck, you encouraged the District and area municipalities to “work towards achieving a mutually acceptable solution.” We support this approach, and are hopeful that it can be achieved. In the meantime, we would like to share the following comments to help you understand our Associations’ views on this matter.

Equal Seats for Towns and Townships will provide fair, equal and effective representation for Muskoka’s two significant Communities of Interest

The Associations strongly oppose maintaining the status quo at District Council where the Towns have control over decisions. We support fair, equal and effective representation at District Council, which can best be achieved with an equal number of seats for each lower-tier municipality.

The 3 Town Mayors have asserted that ‘representation by population’ is the sole appropriate basis for allocating seats on District Council. However, Ontario’s guide for municipal councillors ([here](#)) sets out factors for Councils to consider when reviewing their council composition, and representation by population is just one factor. The list also includes:

- geographic criteria, such as adequate representation for rural municipalities, which would otherwise be disadvantaged by a pure representation by population formula; and
- social criteria, such as regard for *communities of interest* or identity (for example, communities based around language or shared culture and history).

The principle of ‘effective representation’ was established in 1991 by the Supreme Court of Canada (the *Carter* decision) and has been applied in electoral boundary decisions in Ontario, including the Township of Georgian Bay’s ward boundary decision in 2013 that was upheld by the Ontario Municipal Board. The Supreme Court of Canada states: “Factors like geography, community history, *community interests* and minority representation may need to be taken into account to ensure that our legislative assemblies effectively represent the diversity of our social mosaic.”

In summary, the *Carter* decision provides that like-minded residents (*communities of interest*) should not be fragmented from others of a similar mindset during the creation of municipal boundaries. This fragmentation issue is significant and material with the current electoral boundaries in Gravenhurst, Bracebridge and Huntsville where the voices of waterfront residents risk being suppressed by the voices of urban residents. The town boundaries are drawn in such a way that more than 35% of town residents live on the waterfront.

There are two significant communities of interest in Muskoka: (i) urban town residents and (ii) seasonal and permanent waterfront residents. There also are rural residents who often share the same concerns as waterfront residents regarding water quality and over-development. The waterfront population comprises more than 57% of the total population. While these two significant communities of interest share many priorities, such as protecting Muskoka’s natural environment, its traditions, and its heritage, they also have unique issues that pertain specifically to each group.

It is our belief that Muskoka is best served by both significant communities of interest having *effective representation* on District Council, representation that will allow the voices of both communities to be heard equally.

For effective representation of the waterfront community of interest, we believe the 3 Townships - whose residents are predominantly on the waterfront - should have as many votes on District Council as the 3 Towns.

To assist in our understanding and District's review, we sought the views of a leading expert in municipal electoral matters, Dr. Robert Williams, who provided the attached letter dated January 14, 2021.

Dr. Williams agrees with our views on this matter, stating: "*Any modifications to the system of representation in Muskoka District should ensure that the seasonal resident majority is not treated as a minority. Any proposal to assign an equal number of seats to each lower tier municipality will provide a fair and balanced council and can serve to provide the community of interest with the largest population (seasonal) a fair voice on District Council.*"

There are many regions in Ontario, such as Waterloo, Peel, York and Durham, which have rejected the use of pure representation by population in favour of providing more effective representation of key communities of interest when determining upper-tier council composition.

As noted by Township of Muskoka Lakes Mayor Harding in his letter to you dated March 26, 2021, the need for equal representation of all lower tier municipalities was a common theme in the early meetings of the District's Municipal Modernization Committee ("MMC") comprised of the District Chair and six lower tier mayors. In fact, the MMC unanimously approved equal seats for each lower tier at its meeting on January 18th, 2021. It was surprising and disappointing when the 3 Town Mayors reversed course and revoked their approval of equal seats in their February 10th, 2021 letter.

No need to reduce Council Size, provided there are equal seats for each lower tier municipality

Dr. Williams confirms that "*there has been no formal direction from the Province to reduce the size of municipal councils*" and that to his knowledge "*no region has yet reduced its composition under this [Municipal Act] provision.*" He states, "*councils need to be large enough to ensure that all of the community's interests are represented on council.*"

In the absence of any formal direction from the Province, our Associations see no need to reduce the size of District Council since the 22 members, plus the Chair, do not appear to have excess capacity and are operating efficiently. However, we recognize that in order to provide equal seats for each lower tier municipality it will be necessary to change Council's size to a number divisible by 6, plus the Chair.

When the MMC proposed to reduce District Council from 22 to 18 seats, plus the Chair, we indicated our support provided there were 3 seats for each lower tier municipality. That would allow for appropriate representation - the Mayor and 2 Councillors - from each of the six lower tiers.

Having at least 3 District Council members from the Township of Georgian Bay is essential to effective representation of this community: having fewer would silence the voice of the Georgian Bay coastal residents which they finally gained during their 2013 ward boundary review.

The Associations believe that a reduction to 12 councillors is too great. In fact, Dr. Williams states: "*In my view, a District Council of 12 seriously compromises the ability of significant communities of interest having a voice and being heard.*"

No Weighted Voting

The Associations are fundamentally opposed to weighted voting being introduced at District Council. We do not believe that any one Councillor should have greater voting rights than another. That will only serve to create an unbalanced dynamic on Council and risks devaluing and discouraging Councillors whose votes carry less weight.

Although a number of Ontario's County governments have weighted voting, Regional Governments similar to the District of Muskoka, with both rural and urban centres, do not. Dr. Williams confirms that "*no other regional government in Ontario uses weighted voting in reaching decisions on its Council.*" Even though Councillors in Regions such as Waterloo, York and Peel have vastly different numbers of constituents per Councillor, they have adopted the one Councillor, one vote model.

Dr. Williams warns that "***weighted voting may give excessive influence to a minority of individual councillors with "extra" votes who together may not represent the largest community of interest in the District.***" He states: "*In my view, having more voices and clear accountability (one Councillor, one vote) is preferable to reducing the actual number of representatives in the interests of making decision-making by Council more 'efficient.'*"

Decisions by Majority Vote

The Associations believe that District Council decisions should be made by majority vote which is widely accepted as being simple and fair. We believe it is preferable to a tie breaking vote by the District Chair since majority voting will lead to discussion and compromise to resolve issues of importance for the District.

District Chair appointed by Council

The Associations support the District Chair continuing to be appointed by Council and not directly elected by voters. This is consistent with how other heads of government are selected and is recommended by Dr. Williams. He states: *“a District-wide election would make it expensive and logistically challenging to provide the residents the information they need to make an informed vote. In my opinion, the District Chair should be appointed by Council as at present and not directly elected by voters.”*

Seasonal Residents should be weighted at 100% for Council Representation

The Associations strongly believe that seasonal residents should be weighted at 100% for the purpose of representation on District Council. As explained in the September 2020 letter to you from the MLA and FOM, the original rationale in the late 1960s for weighting the seasonal population at 50% was that seasonal residents were only in Muskoka for a portion of the year. This is no longer the case since seasonal residents now spend extended periods of time in Muskoka and have become actively involved in the community through both volunteer and elected roles.

Of note, District Council has approved the 100% weighting of seasonal residents, and we urge you to incorporate this into your decision regarding District Council composition.

A complete and accurate Seasonal Resident Count should be required

The population of the District is estimated at 81,000 seasonal residents and 60,000 permanent residents. As the federal census does not count seasonal residents, the District is lacking an accurate count of the majority of its population which the Associations believe is essential for making policy decisions and determining appropriate council representation.

It is the view of the Associations that a complete and accurate count of seasonal residents should be required, such as a seasonal resident census. An accurate count is important not just for electoral representation, but also for use in general government operations and policy decisions. This count should include all taxpayers regardless of voter eligibility or nationality.

In the absence of a seasonal resident census, official information such as the District's Second Home Study and MPAC are the most plausible sources of population data to establish electoral representation.

The Environics study undertaken by the District to count the number of seasonal residents based on cell phone data is flawed and does not provide a reliable count.

We have identified issues with the results that have not been corrected and we continue to object to the lack of inclusion of non-Canadian residents.

Comments provided in our Dec 3rd letter to the MMC on the Environics cell phone study (attached) were reviewed and responded to by Environics. They acknowledged our concern that American and other international property owners were excluded from the count and that some short-term rental tenants may have been included as seasonal residents. However, their response did not address the significant discrepancy between their results and those of previous studies: Environics estimates the seasonal populations of the towns to be 45% higher than in previous studies, and that of the townships to be 13% lower than in previous studies, despite growth in the number of seasonal residences. Such a result seems sufficiently improbable that it merits further investigation before relying on Environics' numbers. It seems quite possible that significant double counting of permanent residents in those municipalities may have occurred (i.e. counting individuals as both permanent and seasonal residents).

While we acknowledge that the data will never be perfect, it needs to be sufficiently robust that there is confidence in its reliability. The Associations cannot accept results that do not include all seasonal residents, regardless of their country of origin. As such we believe the Environics study should not be adopted or endorsed.

Dr. Williams concurs and notes: *"The District Staff report from November 4, 2020 ... includes five limitations to the Environics methodology that are, in my opinion, so transparently overwhelming that the tool has little credibility in this context and the data are highly suspect."*

He concludes: *"The District already has a long-standing technique to capture supplementary demographic information (the Second Home Study) and has routinely used the data for official purposes (such as making policy decisions). If its reliability is being questioned in this review, the District should address whatever it believes those shortcomings rather than relying on the results of a questionable tool for estimating the population as a foundation for building the District's key democratic decision-making structure. In cases where an Ontario Municipal Board ruling addressed the population data used to establish electoral representation, official local and external information (such as that generated by MPAC or the equivalent of the Muskoka Second Home Study) have been held to be the most plausible sources. In my opinion, tracing the location of cell phones falls a long way from those standards."*

Summary

The two significant communities of interest in Muskoka are partners and mutually reliant on one another in this incredible region. It is the belief of the Associations that the future of Muskoka is best served by a model of fair, equal and effective representation at District Council, and that this can best be achieved by an equal number of seats and equal voting rights for every lower tier municipality. No one councillor's vote should have greater weight than another's.

There will always be issues that divide Council or benefit one area over another, but if District Council is to achieve its mission of *"Working together through sound governance to manage the legacy of a healthy Muskoka by protecting the natural environment, driving a vibrant economy and enhancing the inclusiveness of our caring community"*, this can only be achieved by an equal number of seats on Council for the towns and townships and one vote for each Council member.

Respectfully submitted,



Laurie Thomson
President, Friends of Muskoka



Susan Eplett
Vice-President, Muskoka Lakes Association



Rupert Kindersley
Executive Director, Georgian Bay Association



Wendy Gibson
President, Lake of Bays Association
Association



Ian McClennan
President, Clear Lake Property Owners Association



Bill Cooper
President, Honey Harbour Association



Mark Scarrow
President, Leonard Lake Stakeholders Association



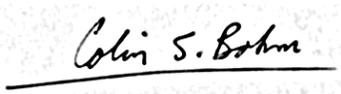
Lewis Reis
President, Madawaska Club at Go Home
Bay

Brett Harris

Brett Harris
President, Twelve Mile Bay Cottage Association



Katherine Ristic
Secretary and Director, Browning Island
Cottagers' Association



Colin Bohm, Co-President
Wah Wah Taysee Association



Mark dePencier, Co-President,
Wah Wah Taysee Association



Tom Halpenny
Cognashene Cottagers' Association



Frank Boddy
President, Six Mile Lake Association

Other Community Associations that support the principles and recommendations outlined in our letter:

Lake Rosseau North Association
Royal Muskoka Island Association

Cc: District Chair John Klinck
District Council