

Members of the Municipal Modernization Committee
District Councillors
District of Muskoka
70 Pine Street
Bracebridge, ON
P1L 1N3

December 3, 2020

Dear Committee Members,

Re: District Council Composition Review

The Muskoka Lakes Association and Friends of Muskoka have been following closely the District's Municipal Modernization review process. We appreciate the Committee and Council's efforts to keep moving this review along.

As you continue to consider the way forward, we would like to address four issues of great importance to our members in our submission.

1. Council Size

We support the decision to move to a smaller District Council with the proviso that all lower tier (LT) municipalities are provided a fair and equal voice in Council decisions. We believe this can be achieved with a council size of 12, 14 or 18, plus Chair, equally distributed between all the municipalities, as described in our November 11, 2020 letter to your committee. We also would be fully supportive of a councillor compensation review in light of the increased workloads associated with a smaller council.

2. Seasonal Resident Count (Environics Data)

We have been vocal about the need for a more accurate count of seasonal residents on which to base the review of representation. We attended the meeting where Environics presented their methodology and results. While we find the cell phone method interesting, we have significant concerns with the reliability of the study undertaken to assist with the seasonal resident count. We believe that the study was rushed in both its implementation and its acceptance due to the December 10th provincial deadline. As a result, there are significant potential errors in their methodology and unexplained, questionable outputs. As outlined in our November 11th letter to you, we do not believe that this Committee or District Council should base governance decisions on the study's findings until a number of issues have been reviewed and accounted for. Our specific concerns with the Environics study are contained in the attachment to this letter.

3. Council Voting Rights and Chair Considerations

District Council has proposed a size of 12 members with **equal** representation from all 6 LT municipalities (2 seats each). However, the benefit of equal representation is eliminated with Councils' intent to apply weighted voting. We are fundamentally opposed to weighted voting. The 2017 Sanction report to District Council stated: "The option of adopting weighted voting received little to no support from members of District Council or from citizens during our consultations."

It is our belief that the greater good of Muskoka would be best served by a model of equal representation and equal voting rights for every LT municipality. No councillor's vote should have greater weight than another's. That will only serve to create an unbalanced dynamic on Council and risks devaluing and discouraging councillors whose votes carry less weight.

It may also lead to councillors favouring the interests of their LT constituents over the interests of all the District constituents they are mandated to represent as a member of District Council.

As explained in our November 11th letter, we believe Council decisions should be made by majority vote of councillors and, where there is a tie or an issue of particular importance, a 2/3 super majority vote. Majority and super-majority voting is widely accepted as being simple and fair, and we believe it is preferable to a tie breaking vote by the District Chair since it will lead to discussion and compromise to resolve issues of importance for the District.

4. Effective Representation – the legal construct

Given an estimated population of 81,000 seasonal residents and 60,000 permanent residents in the District, we believe it is no longer appropriate for the towns to out vote the townships.

We believe there is a related core issue that has never been fully acknowledged in the District, of seasonal residents' voices not having been effectively represented. The arbitrary town boundary lines have severed many cottagers from their like-minded residents on the waterfront and isolated them from their community of common interest.

In our review work on this file we have come across a landmark decision of the Supreme Court of Canada (the *Carter* decision) that establishes the over-riding principle of "effective representation". We believe that council should be aware of this important decision as it goes to the current representation issues under consideration in the District and has guided electoral boundary decisions in Ontario (including the Township of Georgian Bay's ward boundary decision in 2013 that was upheld by the OMB). The Court 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. We would submit that this is precisely what has happened with waterfront cottagers who have been counted as town residents in spite of them being more philosophically aligned with fellow waterfront residents. This fragmentation issue is significant and material with the current electoral boundaries in Gravenhurst, Bracebridge, and Huntsville.

However, this concern about effective representation would be fully remedied with the Council structure and voting rights contained in point 3 above and we think it would be helpful if this legal concept could be introduced, explained and discussed at Committee and Council levels.

We thank the entire Committee for your work on this file. We acknowledge that it is a complex one, but we remain hopeful that a fair and equitable solution for all Muskokans will be found.

Sincerely,



Deborah Martin-Downs
President, Muskoka Lakes Association



Laurie Thomson
President, Friends of Muskoka

Attachment:

Municipal Modernization - Appendix to letter dated December 3rd, 2020

Environics Phone Data Study-MLA/FOM Issues and Questions about Methodology and Execution

The MLA and FOM have identified the following issues with the Environics study and believe it should not be adopted or endorsed without considerable opportunity for public review and comment.

1. American and other international property owners were excluded

American and other international property owners represent a significant portion of the seasonal resident base and should be included in the count. All members of the seasonal population are constituents of the District, whether or not they have the right to vote.

2. Some short-term rental tenants were likely included as seasonal residents

As cell phones residing in the District for between 20 and 180 days were counted as seasonal residents, this likely included short term renters in all lower tier municipalities.

3. Some permanent residents appear to have been double counted in the study

Council cannot adopt the Environics cell phone data because it seems they made no attempt to verify or explain the permanent resident count, and only added to the population count of the Towns as a result of their potentially flawed methodology.

At first blush, the data looks odd as the seasonal resident count in the three towns is 45% higher than that estimated by the Second Home Study but 13% lower in the three Townships. This discrepancy was not explained.

The data shows that many permanent homes, particularly those in the three Towns, had residents who stayed between 20 and 180 days and were thus counted as seasonal residents. In fact, the Environics data suggests that 58% of the seasonal residents in the three Towns reside in permanent resident homes. There was no explanation as to why seasonal residents would reside in the homes of permanent residents.

Importantly, it seems that the Environics count not did remove from the permanent population count any of the newly identified seasonal residents, even though many of those may have already been counted as permanent residents.

This cohort would include the vast majority of university students, and many snowbirds, who were already included in the census count of permanent population but did not have their phones residing in Muskoka for more than 180 days per year.

It is also likely to include other permanent residents, who simply did not have their phones turned on at night for more than 180 days per year. Many people turn their phones off at night, especially at the cottage, to avoid disruption, avoid overcharging and / or to conserve their battery.

These factors might account for a significant part, if not most, of the statistically abnormal newly identified seasonal residents in Huntsville, and perhaps the other Towns. Because permanent residents are a disproportionately large share of their population, this discrepancy might have disproportionately inflated their reported population. Any double counted residents should be removed from the permanent population count of both the Towns and the Townships to avoid an unfair count.