

**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

IN THE MATTER of a proposal to restructure the rural municipalities of Afton, Bonshaw, Meadow Bank, New Haven/Riverdale, and West River, pursuant to section 15 of the *Municipal Government Act*, R.S.P.E.I. 1988, c. M-12.1.

J. Scott MacKenzie, Q.C., Chair
Erin T. Mitchell, Commissioner

REPORT

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I. BACKGROUND

A. General Overview

1. On November 12, 2019, the Island Regulatory and Appeals Commission (the “Commission”) received a proposal pursuant to section 15 of the *Municipal Government Act*¹ to restructure the rural municipalities of Afton, Bonshaw, Meadow Bank, New Haven/Riverdale, and West River (the “Proposal”).² Additional information was sought from the proponents and received by the Commission on December 5, 2019.³
2. Public notice was issued on December 23-24, 2019.⁴ The Commission did not receive any objections⁵ or written comments. As a result, a public hearing was not held.

B. Commission Recommendation

3. The Commission recommends approval of the Proposal and the creation of the Rural Municipality of West River, as proposed.

II. LEGISLATIVE AUTHORITY

A. Role of the Commission

4. The role of the Commission with respect to a proposal to create a new municipality is strictly advisory in nature. The Commission is not an applicant or proponent. Rather, the Commission is tasked with making recommendations to the Minister in accordance with its obligations under the Act and the *Principles, Standards, and Criteria Regulations*.⁶ The Minister may accept, modify, or reject the Commission’s recommendation(s).⁷ The final determination with respect to a proposal to

¹ RSPEI 1988, c M-12.1 (the “Act”).

² **Appendix A.** The Proposal included a report prepared by Stantec Consulting Ltd. entitled “West River Municipal Growth Management Study” dated August 21, 2018 (the “Stantec Report”).

³ Being Form MGA-MR-1 (Proposal to Establish, Restructure, Dissolve a Municipality) and copies of the municipal council resolutions approving the making of the proposal.

⁴ **Appendix A.** The Commission was copied on a petition filed with the Minister by residents of the affected area, prior to public notice of the Proposal being issued. None of the petitioners filed an objection with the Commission.

⁵ Act, s.17. An objection must be filed in the form approved by the Minister. This form is available on the Commission website and at the Commission’s office.

⁶ PEI Reg EC750/17 (the “Regulations”). The factors to be considered by the Commission are listed in the Act, s.19.

⁷ Act, s.20.

establish or restructure a municipality rests with the Lieutenant Governor in Council.⁸

B. Factors considered by the Commission

5. In making its recommendations to the Minister, the Commission has considered the Proposal in accordance with the Act⁹ and Regulations.¹⁰
6. The Commission did not receive – and therefore did not consider – any objections¹¹ or written comments from surrounding municipalities or members of the public.

III. PROCEDURAL HISTORY

A. Notice of Proposal

7. The Commission issued public notice of the Proposal over the course of two days, December 23 and 24, 2019 (the “Notice”).¹²
8. On December 23, 2019, Notice was published on the Commission website¹³ and in five prominent locations in the affected communities.¹⁴ Notice was issued to the Minister, the Abegweit First Nation, the Federation of PEI Municipalities, and to municipalities in the area, including the Rural Municipality of Clyde River (“Clyde River”) and the Town of Cornwall (“Cornwall”).¹⁵ On December 24, 2019, Notice was published in the Guardian newspaper.¹⁶

B. Objections and Written Comments

9. The Commission did not receive any objections or written comments with respect to the Proposal.

C. No Mediation or Public Hearing

10. Mediation was not held as the Commission did not receive any objections from a municipality.¹⁷

⁸ Act, s.21(1)(b).

⁹ Act, s.19(2).

¹⁰ Regulations, ss.2 and 15.

¹¹ Act, s.17.

¹² Act, s.16.

¹³ www.irac.pe.ca/municipal_government/ - this is a webpage dedicated to municipal establishment or restructuring proposals submitted to the Commission which includes, for every proposal, a copy of the notice of proposal, proposal, map of the affected area, and the Ministerial approved objection form.

¹⁴ Notice was posted at Gass’s General Store in New Haven, the Cornwall PEILC outlet, Bonshaw Hall, the Kingston Legion, and the Afton Community Centre.

¹⁵ For completeness, and to ensure all potentially affected municipalities were aware of the Proposal, on March 3, 2020 Commission General Counsel contacted the CAO for the Rural Municipality of Kingston and provided her with a copy of the Notice and the Proposal. An objection was not filed by Kingston.

¹⁶ **Appendix A.** Act, s.16(1)(b). As required by s.16(5) of the Act, the Notice listed the affected municipalities, the estimated population of the proposed municipality, and a map of the affected area. It also explained how to see a copy of the proposal, and how to file – and the filing deadline for – an objection with the Commission.

¹⁷ Or permitted. Mediation only occurs where an objection has been filed by a municipality. Act, s.17(6).

11. A public hearing also was not held, as the Commission did not receive any objections,¹⁸ and the Minister did not order a public hearing.¹⁹

IV. THE PROPOSAL

A. Compliance with the Act

12. The Commission is satisfied that the Proposal complies with the relevant sections of the Act²⁰ and Regulations.²¹
13. The Municipality will be required to provide fire protection,²² municipal planning services,²³ emergency measures planning,²⁴ and a designated municipal office.²⁵ The Proposal provides sufficient detail to satisfy the Commission that the Municipality either meets the criteria, provides these services, or will be able to provide these services in compliance with the Act and the timelines set out in an order-in-council establishing the Municipality.²⁶

B. Population of Proposed Municipality

14. The estimated population of the Municipality is 3,154 individuals. This estimate is based upon 2016 population levels for the Proponents, as follows:

Proponent	Population (2016 est.)
Afton	1,291
West River	801
Bonshaw	187
Meadow Bank	355
New Haven-Riverdale	520
Municipality	3,154

15. Given this population, the Municipality does not meet the threshold of a 'Town'²⁷ but could be considered a large rural municipality.²⁸

¹⁸ Act, s.17(4)(a).

¹⁹ Act, s.17(4)(b).

²⁰ Those sections of the Act being ss.13(1)(b), 14(a)-(c), and 85.

²¹ Regulations, ss.2 and 15. In its review, and for greater certainty, the Commission has determined that the Proposal satisfies the criteria set out in sections 2 and 15 of the Regulations, and specifically ss.15(a)-(i), which includes compliance with ss.14(b),(c), and 85 of the Act.

²² Act, s.14(a).

²³ Act, s.14(b).

²⁴ Act, s.14(c).

²⁵ Act, s.85.

²⁶ Act, s.21. See for example, Act, s.185(5).

²⁷ 4000 individuals. Act, s.13(1)(b).

²⁸ According to the Stantec Report, the Municipality would be the fifth largest in Prince Edward Island. The Commission notes that the Town of Three Rivers was established following the Stantec Report, and has a higher population.

C. Municipal Boundaries and Ability of Other Municipalities to Expand

a) Proposed Boundaries

16. The proposed boundaries of the Municipality are sufficiently capable of definition. The Municipality will adopt and combine the municipal boundaries of the proponents.²⁹
17. As the Proposal does not involve annexation of lands located in unincorporated areas of the province, the Commission is satisfied that the Municipality's boundaries are clear and can be defined with reference to the proponents' existing municipal boundaries.

b) Ability of Other Municipalities to Expand their Boundaries or Provide Services

18. Three other municipalities share a boundary with the Municipality: the rural municipalities of Clyde River ("Clyde River") and Kingston ("Kingston"), and the Town of Cornwall ("Cornwall").
19. The Proposal indicates that information sessions were held with the rural municipalities of Kingston and Clyde River³⁰ and that they were aware of the Proposal and proposed boundaries of the Municipality.³¹
20. To the extent that the Proposal limits their ability to expand their boundaries, both Kingston and Clyde River have options for future expansion available to them. For example, Kingston and Clyde River could jointly seek to restructure. They could also, at a later date, seek to join the Municipality. Each rural municipality also shares a boundary with Cornwall and could, theoretically, consider an application to restructure with Cornwall.
21. Cornwall is minimally impacted by the fact that it shares a common boundary with Meadow Bank.³² It, too, has the ability to expand its boundaries (i.e. via restructuring with Clyde River, Kingston, or the Rural Municipality of Warren Grove).
22. In sum, although the Municipality does impact, to some degree, the ability of surrounding municipalities to expand their borders, the Commission is satisfied that each of these municipalities have sufficient options available to them for future expansion – with or without the Municipality's involvement – and that the Proposal does not hinder their ability to expand their boundaries or provide services to their residents.³³

²⁹ The existing municipal boundaries are set out in a map included with the Proposal.

³⁰ Clyde River was originally part of a working group that was created to explore the possibility of amalgamation in the affected area. According to the Proposal, Clyde River left the 'working group' in 2017.

³¹ Neither participated in the Proposal or filed objections with the Commission.

³² Cornwall is aware of, and did not object to, the Proposal.

³³ Regulations, s.2(d).

D. Municipal Transition Plan

23. The Commission is satisfied that the Proposal demonstrates a satisfactory municipal transition plan.³⁴
24. Included in the Proposal is a projected five-year operating budget and five-year capital plan, along with an explanation of how the Municipality intends to transition its assets and debts and provide services to its residents. The Commission is satisfied that the Proponents have turned their minds to an orderly municipal transition, and with the assistance of the Minister and any necessary professional advisors, will be capable of transitioning from five rural municipalities to one.

a) First Municipal Council

25. The Proposal provides a clear plan to establish the first municipal council.
26. Each applicant municipality will forward the names of two elected members of their respective municipal council, to establish an interim council consisting of ten councillors and one mayor. The mayor will be chosen from one of the current mayors of the applicants.³⁵
27. The interim council will establish a committee to develop a bylaw to determine the electoral boundaries and electoral system in advance of the next municipal elections in 2022.³⁶

b) Transfer of Municipal Administrations, Services, Facilities, Assets, Debts, and Reserve Funds

28. The Commission is satisfied that the Proponents have demonstrated an adequate plan for the transfer of municipal administrations, services and facilities.³⁷

c) Administrative Staffing and Municipal Offices

29. The Proposal demonstrates a plan for proper administrative staffing and functioning of a municipal office. The Municipality's office will be located in the Afton Community Centre.³⁸ The Proposal indicates that it will operate for a minimum of twenty hours per week and be managed by the Municipality's new Chief Administrative Officer (the "CAO").³⁹

³⁴ Regulations, s.15(e).

³⁵ The Mayor of Meadow Bank and the Mayor of Afton have both agreed to assume the interim mayor role until municipal elections are held in 2022.

³⁶ Proposal for restructuring pursuant to section 15(2) and 15(3) of the Municipal Government Act (October 25, 2019), pp.15-16.

³⁷ Regulations, s.15(e).

³⁸ 1552 Route 19, New Dominion.

³⁹ Proposal for restructuring pursuant to section 15(2) and 15(3) of the Municipal Government Act (October 25, 2019), p.15 of 16. The Stantec Report assumes that the CAO position will be a full-time position with an estimated annual salary of \$52,000 plus benefits.

d) Municipally Owned or Operated Facilities

30. The CAO will be responsible for operating and managing the municipal office in the Afton Community Centre, as well as a number of other municipal assets, including:⁴⁰
- 13 acres of land in Rice Point (PID#203109);
 - Signage and flower beds at the entrances to Meadow Bank;
 - R.J. Mutter Park, which consists of athletic fields, walking trails, a playground and park located at 2443 West River Road (PID#227306); and
 - The Lloyd Inman Memorial Park located in Canoe Cove (PID#512244).
31. The Afton Community Centre and Bonshaw Community Centre will be owned and funded by the Municipality, but managed by two separate Boards.⁴¹

e) Municipal Services

32. The Proponents have indicated that the Municipality will provide fire services and emergency measures planning, among other things.⁴²

f) Fire Services and Emergency Measures Planning

33. Fire services are provided to the Proponents by the North River Fire Department. Residents pay \$0.075 (per \$100 of assessment) to compensate for these fire services.
34. According to the Proposal, New Haven/Riverdale has emergency planning services in place.⁴³ The other Proponents do not. The Municipality expects to have this service in place for all of its residents by the end of 2020.⁴⁴

g) Police and Water & Sewer Services

35. The Proposal does not speak to police services.⁴⁵ None of the proponents have a municipal police service. The Commission understands that such policing services are provided by the RCMP pursuant to the terms of the Provincial Policing Services

⁴⁰ Proposal for restructuring pursuant to section 15(2) and 15(3) of the Municipal Government Act (October 25, 2019), p.8.

⁴¹ The Afton Community Centre Recreation Committee Inc. and the Bonshaw Community Centre Recreation Committee Inc.

⁴² Proposal for restructuring pursuant to section 15(2) and 15(3) of the Municipal Government Act (October 25, 2019), pp.12-15.

⁴³ The Commission notes that the Stantec Report states that none of the municipalities have an emergency measures plan.

⁴⁴ Proposal for restructuring pursuant to section 15(2) and 15(3) of the Municipal Government Act (October 25, 2019), p.15.

⁴⁵ Nor is it required to.

Agreement and assumes that the Municipality intends to continue with RCMP policing services pursuant to this agreement.

36. None of the Proponents provide water and sewer services to their residents. The Proposal does not include a plan to provide such services.⁴⁶

h) Recreation and Administrative Services

37. The Commission is satisfied that Municipality will be capable of providing adequate recreation and administrative services to its residents.
38. The proponents intend to maintain and operate their existing infrastructure and maintain a municipal office with administrative services. The Proponents believe that restructuring will increase their ability to provide services to its residents while ensuring compliance with the Act.
39. The Proponents state that all residents will have access to the existing recreational facilities and recreational programming will be offered at the Bonshaw and Afton community centres.

i) Official Plan and Bylaw Development

40. The Municipality will provide land use planning services (including an official plan and bylaws).⁴⁷ The Proposal indicates that of the five proponents, only New Haven/Riverdale has an official plan and bylaws in place.⁴⁸
41. If the Municipality is approved, the proponents intend to conduct a review of the New Haven/Riverdale official plan. The proponents intend for the updated official plan and bylaws to be in place by 2022. They indicate that they intend to seek a funding arrangement with the Province to assist with this review.⁴⁹

V. Demonstrated Financial Plan

42. The Commission finds that the proponents have sufficiently demonstrated a financial plan that complies with the Act and provides a path forward for the Municipality.⁵⁰

A. Tax Rates and Property Assessments

43. The Commission is satisfied that that the Proposal provides an adequate summary of the expected tax rates and property assessment values for the Municipality.

⁴⁶ As no water or sewer service is provided within the Municipality, a plan for water and sewer service is not required by the Regulations. See Regulations, s.15(h)(i).

⁴⁷ Act, s.14(1)(b).

⁴⁸ According to the Stantec Report, these were prepared by Phil Wood and Associates in 2010. Absent restructuring, the *Municipal Government Act* would require the other four proponents to prepare official plans and bylaws.

⁴⁹ The Stantec Report assumes that the Municipality will hire a full-time planner/development officer at an annual cost of \$65,000 plus benefits.

⁵⁰ The Proposal was strengthened by the inclusion of the Stantec Report and MRSB financial projections filed with the Commission.

44. The proponents estimate the total property assessment value of the Municipality to be \$295,682,950.⁵¹ The proposed residential property tax rate is \$0.16 (per \$100 of assessed value). The proponents have indicated that they intend to levy a \$0.16 (per \$100 of assessed value) commercial tax rate as well, stating:

Commercial tax rates will be levied, however, as it is not our intention to use commercial tax rates to leverage additional income, it is projected that the commercial tax rate will be set at the same rate of \$.16 as the proposed residential rate.

45. For reference, the proponents included a summary of their assessment rate and existing residential tax base, as of 2018:⁵²

Community	2018 Tax Rate (Per \$100 of assessed value)	2018 Assessment Base (\$)
Afton	\$0.12	139,137,900
Bonshaw	\$0.16	11,878,100
Meadow Bank	\$0.10	34,949,300
New Haven/Riverdale	\$0.20	34,686,400
West River	\$0.13	76,414,000

46. In sum, the proponents expect to increase the tax rate for residents of Afton,⁵³ Meadow Bank,⁵⁴ and West River.⁵⁵ The tax rate for residents of Bonshaw will be unchanged, while the tax rate for residents of New Haven-Riverdale will decrease.⁵⁶
47. The Commission notes that this proposed tax rate is lower, and in some instances, significantly lower, than estimates provided by the Proponents if the restructuring is not approved and each municipality is required to raise revenues⁵⁷ to ensure compliance with the Act.⁵⁸
48. As the Commission has stated in previous reports to the Minister, municipal property tax rates are ultimately the responsibility of the Municipality and its new municipal council. The Commission recognizes that the rates included in the Proposal are simply proposed rates. However, the Commission is satisfied that the proposed rates are supported by the financial projections and analysis included in the Proposal, and encourages the first council of the Municipality to adopt and implement the rates as proposed.

⁵¹ Form MGA-MR-1 Proposal to Establish, Restructure, Dissolve a Municipality, filed December 5, 2019. The Commission notes that the Proposal also lists an assessment base totalling \$297,065,700. For the purposes of its analysis, the Commission has utilized the more conservative number provided by the Proponents.

⁵² As prepared by MRSB Consulting Services and included in the Proposal.

⁵³ By \$0.04 (per \$100 of assessed value).

⁵⁴ By \$0.06 (per \$100 of assessed value).

⁵⁵ By \$0.03 (per \$100 of assessed value).

⁵⁶ By \$0.04 (per \$100 of assessed value).

⁵⁷ By way of increased tax assessment rates.

⁵⁸ According to the Proponents, the tax rate for the individual communities would range from a low of \$0.17 (per \$100 of assessed value) in Afton, to \$0.56 (per \$100 of assessed value) for residents of Bonshaw.

VI. Municipal Assets, Debts, and Reserve Funds

A. Assets and Debts

49. The assets discussed above will be transferred to the Municipality.⁵⁹ The Proponents do not have any debt.

B. Reserve Funds

50. The Commission is satisfied that there is a demonstrated plan to address the Proponent’s reserve funds.⁶⁰ Specifically, the Proponents have advised as follows:

- **Afton** – Reserve funds and Notional Gas Tax Funds – approx. \$286,411 will be dedicated to upgrades and expansion to the Afton Community Centre, as listed in Capital Expenditures forecast.
-
- **Bonshaw** – All reserve funds moved to 5-year Capital Expenditures forecast.
-
- **Meadow Bank** – In a motion of Council, a reserve fund of \$5,000 will be set aside for the future maintenance of the flower beds surrounding the signs identifying the community (neighborhood) of Meadow Bank.
-
- **New Haven/Riverdale** – Reserve funds and Notional Gas Tax Funds – approx. \$165,000 will be dedicated to upgrades to the R.J. Mutter Park, as listed in the Capital Expenditures forecast.
-
- **West River** – The Reserve Fund – approx. \$20,000 (as of end of March, 2019), will be dedicated to repairs at Lloyd Inman Park, as listed in the Capital Expenditures forecast.

51. The Proponents have sufficiently accounted for the transfer of their respective reserve funds to the Municipality.

C. Sufficient Economic Base

52. The Commission is satisfied that the Municipality has a sufficient economic base, including a tax base, to support the proposed services and activities to be offered by the Municipality to its residents. The Proposal demonstrates a stable residential property tax base, positive population growth trends, and a number of commercial operations within the Municipality’s boundaries. It appears to the Commission that the Municipality’s economic base is sufficient to adequately sustain the Municipality’s proposed services and expenditures.

⁵⁹ According to the Stantec Report, the communities’ assets are “modest”.

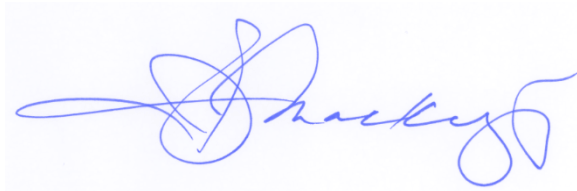
⁶⁰ Proposal for restructuring pursuant to section 15(2) and 15(3) of the Municipal Government Act (October 25, 2019), p.9.

VII. CONCLUSION

52. The Commission has considered the Proposal in accordance with its obligations under the Act and Regulations.
53. The Commission recommends approval of the Proposal and the creation of the Municipality, as proposed by the Proponents.

DATED at Charlottetown, Prince Edward Island, Monday, April 6, 2020

BY THE COMMISSION:



J. Scott MacKenzie, Q.C., Chair



Erin T. Mitchell, Commissioner

I. INDEX TO APPENDICES

A. Notice of Proposal and Proposal