

A PATH TO MUNICIPAL VIABILITY

TOWNS TASK FORCE

September 2012

REPORT

***Recommendations Approved by UNSM
Membership September, 2012***

***“We must think with our heads and
not our hearts.”***

(Task Force Motto)

Members

- Mayor David Corkum (Town of Kentville, Chair)
- Deputy Warden Jimmy MacAlpine (UNSM President)
- Warden Keith Hunter (County of Cumberland)
- Councillor Sandra Statton (District of Lunenburg)
- Councillor Russell Walker (Halifax Regional Municipality)
- Mayor Billy Joe MacLean (UNSM Past President)
- CAO Louis Coutinho (Town of Windsor and AMA representative)
- Mayor Darian Huskilson (Town of Lockeport)
- Mayor Barrie MacMillan (Town of New Glasgow)

Staff

- Marvin MacDonald (Executive Director, Municipal Services, SNSMR)
- Lyle Goldberg (Policy Analyst, UNSM)
- Betty MacDonald (Executive Director, UNSM)
- Jeff Shute (Director, Finance & Policy, SNSMR)
- Brant Wishart (Director, Strategy & Sector Relations, SNSMR)

Sub Committee

- Mayor Paul Beazley (Town of Windsor)
- Warden Keith Hunter (County of Cumberland)
- CAO Louis Coutinho (AMA representative)
- Betty MacDonald (Executive Director, UNSM)
- Lyle Goldberg (Policy Analyst, UNSM)

- Jeff Shute (Director, Finance & Policy, SNSMR)
- Brant Wishart (Director, Strategy & Sector Relations, SNSMR)

Editing

- Andrew Paton (Senior Planner, SNSMR)
 - Linda O'Shea (Legal Technician, SNSMR)
-

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BACKGROUND

Nova Scotia's thirty towns have a rich and diversified history. Although each has its own unique story to tell, there are also many similarities among them. Most were established and grew because of some natural advantage they held – a source of coal or fish, at a crossroad, along a river, or near fertile soil.

However, in a changing world some of the advantages that a location or resource originally offered may no longer be there or sufficient. The struggles of the fishery, changing transportation modes and shifting economic patterns have hurt some of our towns. However, at the same time, others are flourishing.

The Union of Nova Scotia Municipalities Towns Caucus recognized this, and in 2010 the UNSM wrote to the Province requesting that a Towns Task Force be formed to address the special conditions of Nova Scotia towns, especially those facing challenges.

The Province agreed to this at the Provincial Municipal Round Table. In the course of its work, the Task Force came to realize that its work and recommendations would be affecting more than just towns. The title of the report “A Path to Municipal Viability” reflects that fact. While some of the recommendations focus on towns, particularly downtowns, the bulk of them apply to all municipalities in the Province.

The Task Force also recognizes that the recommendations contained in this report to ensure that our municipalities are viable in the long term, are not the end of the work. They are the start of a process to make Nova Scotia municipalities as strong as they can be.

Process

The Task Force met regularly through 2011 and 2012, discussing the issues and bringing forward its recommendations. A subcommittee was established to further refine and research issues referred to it by the Task Force.

The recommendations were presented at five regional UNSM meetings. The recommendations of the Task Force were further refined based on these sessions and presented at the UNSM Spring Workshop in Truro.

The reception to the Task Force work was generally positive. A number of suggestions and ideas were put forward at the sessions and many of these have been incorporated into this report.

Purpose

The purpose of the Task Force was straight forward:

- To make recommendations to the Province and UNSM to address the many challenges facing Nova Scotia towns.

However, the Task Force recognizes the fiscal challenges facing the Province and municipalities, and hence all recommendations are made in that context.

OVERALL PRINCIPLE

In bringing its report forward, the Task Force adopted the overall guiding principle that it should strive for recommendations that provide the *“Best value and fairness for tax payers regardless of structure”*.

The recommendations that flow from this principle can be grouped into six themes or goals:

1. Municipalities must be viable in the long term.
2. Governance changes may be necessary to achieve viability, and legislation and programs should support this.
3. Create less confrontational ways to resolve service issues between municipalities, resulting in more efficient municipalities.
4. Make the tax burden on citizens for regional services, fair.
5. Enhance the support for and use of regional service delivery models.
6. Provide new tools and incentives to increase economic growth in downtowns.

It is recognized that some of these goals will take longer to implement than others, that in some cases legislative change is required, and that in others a financial commitment from all parties will be required. Although some recommendations are universal in nature, not all will be applicable to any one municipality. What the Task Force is recommending is an expanded “tool kit”, including enabling legislation, programs, and guidelines for municipalities to pick and choose from to address issues.

Early in its deliberations, the Task Force took the position that it does not support annexation as an appropriate solution to the challenges facing towns. The Task Force believes that cooperation will yield much better results for citizens over confrontation and conflict.

THE ISSUES

There is not only one issue facing Nova Scotia towns and municipalities, there are a number, and not all towns face all issues. The Task Force began its work trying to better understand these. Among the issues it looked at were:

Tax Base

There has been erosion in many towns' tax bases. This is due to a number of factors. In some cases, a municipality has been traditionally dependent on the natural resource sector or a simple employer. With the downturn in the industry or the closure of a plant, etc., a number of municipalities lost major components of their commercial base. The same can be said of other resource industries. With the loss of major employers and demographic shifts, residential development has slowed and commercial bases have shrunk.

There has also been the phenomenon of new commercial development taking place on the periphery of towns – whether it be for lower tax rates, land accessibility, visibility from the highway or other reasons. The result is the same, a shrinking commercial tax base for towns.

At the same time, slower or even negative residential development has seen a shift in the tax burden from the residential sector to the shrinking commercial base.

Room to Grow

Although some towns may be struggling, others are suffering from a lack of room to grow. This means that new businesses cannot easily find a location within the town, and new residential and commercial developments must

locate in an adjacent municipality. This in turn means lost tax revenue to the town.

At the same time, residents on the periphery of towns often look to the town for services, recreation and cultural activities.

Declining Population

The majority of Nova Scotian towns are facing population decline. The reasons for this are many, including job losses or lack of new jobs, the natural migration of young people to urban centres (which is happening around the world), and falling birth rates.

The result of this is that fewer people need fewer services, and hence the need for fewer employees, which means fewer people and the cycle continues.

However, this does not tell the whole story as deep population losses in some towns were offset by strong gains in others. Of the 11 towns showing growth, 7 were in the “shadow” of Halifax Regional Municipality.

Infrastructure

As initial centres of concentrated development, towns generally were the first municipalities to receive water and sewer services, and other infrastructure. This also means it is older, and in many cases in need of upgrades. Towns recognize this, but infrastructure improvements become difficult to finance with a shrinking population base.

Rural municipalities also have infrastructure challenges when services with fixed costs are required but the population base is both small and scattered.

The Good News

The Task Force also acknowledges that some towns in the Province are doing very well. Population is increasing and downtowns are strong. Although some of this has to do with geography, the Task Force believes that there are lessons to be learned from these towns. The recommendations of the report also reflect this.

Goal 1: Municipalities must be viable in the long term

The Task Force believes that municipalities must be viable in the long term. “Viability” is a much used term and there are a myriad of definitions for it. The Task Force defines it as, “a state where a municipality is capable, both in the short and long term, of providing a basic level of service to residents and businesses, at an affordable cost that is sufficient to support those services”. Once citizens are paying more than they can afford, or the municipality, despite its best efforts simply cannot make ends meet, it is no longer viable in the long term.

Although a municipality may be able to “get along” for a while, the Task Force believes that it is important to look at viability from a longer term perspective.

There are cases where the long term viability of a municipality is in doubt even though it is doing fine today, i.e. a municipality that is steadily losing population, or in others, the municipality is maintaining its status with increasing costs to its residents. The Task Force believes that ultimately, residents should decide the future of their communities and whether the cost associated with the status quo should continue. However, citizens must have adequate information in order to guide their decision making process.

Municipal Viability Assessment and Action Process

The Province, UNSM, and the Association of Municipal Administrators (AMA) are currently developing a set of Financial Condition Indicators to assist in assessing the viability of municipalities.

These indicators can provide councils and citizens with the information to begin a serious discussion about the future. If that future looks cloudy then the Task Force believes that further steps must be taken, more detailed

Goal 2: Governance changes may be necessary to achieve viability, and legislation and programs should support this

information gathered at what the future will look like if the status quo continues, and what the options may be to go forward.

RECOMMENDATIONS

1. Financial Condition Indicators - The fiscal situation of all municipalities should be transparent and based on solid analyses. To achieve this, the Financial Condition Indicators should be prepared for each municipality in the Province, and the results of these be made available for public review and comment.
2. Comprehensive Follow-up Studies - If the issues identified through critical indicators continue to demonstrate problems over a three year period, additional studies must be undertaken. These studies should be designed to provide in-depth analysis of the municipal situation, what the future will look like without change, and options for consideration. A formal provincial cost-sharing program should be established for this purpose.
3. Public Engagement Required - Public engagement must form part of the preparation of the studies, and completed studies should be presented at a public forum to help citizens decide the future of their municipality. For example, the studies may show that much higher tax rates may be necessary to maintain the current status. Citizens should have input into whether they wish to continue to pay for this or to look at other options. Provisions for some form of plebiscite or other means of gauging public opinion should be part of this process.
4. Entrench Process in Legislation - The processes for required reporting on the Financial Condition Indicators, and the required follow up, should be entrenched in the Municipal Government Act

Goal 2: Governance changes may be necessary to achieve viability, and legislation and programs should support this

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There may be cases where the viability studies referred to in the previous section will point to the need for governance change, such as a union with an adjacent municipality. (It may also point the way to more regional approaches which will be addressed later in the report.) The options for considering this today are limited.

Changes in governance such as dissolution and amalgamation are controlled either by the Nova Scotia Utility and Review Board (UARB) or the Legislature.

Both of these processes to change municipal structures can be confrontational, and may result in the perception and long term feeling of there being a winner and a loser. The Task Force believes that change is best if “it comes from within and is negotiated”. It also accepts that making governance changes to a municipality is difficult for all.

The Task Force believes that there should be new mechanisms to facilitate change to make it easier, less confrontational, and more transparent processes when municipalities agree to consider change, and when there is disagreement about whether change should occur.

RECOMMENDATIONS

Commissioner

Goal 2: Governance changes may be necessary to achieve viability, and legislation and programs should support this

1. Amend Legislation to Enable Commissioner - Establish new provision in the Municipal Government Act to enable the appointment of a Commissioner to oversee municipal governance change. These provisions should include matters such as the role, powers and duties of the Commissioner, and include what type of studies and consultation must take place. The Commissioner should be responsible for carrying out a study, with public engagement as part of the process. If the study recommends change and all parties agree to move forward, an agreement would be prepared and agreed to. This would include financial and other issues associated with the transition. The agreement itself would be ratified by the Province and the union of the municipalities would take place through Provincial action. (This is similar to the process to establish regional municipalities.)

2. Appointment of Commissioner – Provide for the appointment of a Commissioner in one of two ways, depending on whether all the municipal parties involved agree that a governance change review process is the best way forward.
 - 6.1 Parties Agree – If the municipalities agree that a governance change is the best way forward, then these parties should be empowered to appoint a Commissioner. The overall role of the Commissioner would be to review the request and facilitate an agreement among all the parties.

 - 6.2 Parties Do Not Agree – In cases where one party believes change may be required but the other does not, the municipality that does wish to consider the governance changes should be able to request that the UNSM appoint a Commissioner. The UNSM will establish a committee to set criteria and qualifications for commissioners. All parties would be invited to the table and all information shared. The aim of the process is still to reach a solution that meets the needs of the both municipalities and to come to an agreement. After the work of the Commissioner is finished and if no agreement has been reached, the Commissioner or one of the municipalities may submit the report to the UARB for further action. Costs associated with the Commissioner should not be the responsibility of municipalities that are not in agreement with the governance review.

Governance Change Information

3. Best Practices & Templates - Assemble best practices materials and create templates from lessons learned with respect to past experience on governance changes and keep these up to date.

Goal 2: Governance changes may be necessary to achieve viability, and legislation and programs should support this

Cost Sharing

4. Provincial Cost Sharing - The Province should provide programs to share with the costs of the Commissioner and the transition and to assist in this process overall.

Studies

5. Town to Village Status - The MGA should be reviewed to determine if there is merit in providing an easier process for a town to revert to village status, while maintaining provisions for a rural municipality to have input into the decision making.
6. Other Governance Forms - There are different governance forms in other jurisdictions than those which exist in Nova Scotia. In the longer term there should be studies undertaken to look at the merits of creating a new type of municipality to meet the needs of Nova Scotians.

Goal 3: Create less confrontational ways to resolve service issues between municipalities, resulting in more efficient municipalities

In any form of relationship, disputes will arise. The same is true of the relationship among municipalities. At present, there is no real effective means for municipalities to address this. Disputes must either be left as “agree to disagree” or be resolved through court action or Provincial intervention.

The Task Force believes there should be less confrontation and more cooperative means for municipalities to resolve issues between them.

The Task Force also believes that generally speaking, municipalities should enter a process to resolve disputes voluntarily. However, there are instances when some form of binding dispute resolution should be available. The use of this tool would be restricted to significant issues when all other means to resolve an issue have been exhausted.

There are challenges in defining what is “significant” and there are certainly variations among municipalities and situations that influence this definition. The Task Force is of the opinion that “significant” is when one municipality is using another municipality’s services to the extent that it is a detriment to the host municipality.

The measurement of “significant” is:

- A large number of non-host municipal users (30% range)
- The service cost at least 5% of host municipal budget
- No review of the cost sharing formula has taken place in 3 years
- Voluntary arbitration has not been successful.

Goal 3: Create less confrontational ways to resolve service issues between municipalities, resulting in more efficient municipalities

When an application is made for binding arbitration, the first step for the arbitrator will be to make a decision based on these criteria, as to whether the case warrants binding arbitration.

RECOMMENDATIONS

Dispute Resolution & Arbitration

1. **Municipal Arbitration Program** – UNSM establish a municipal arbitrator program to assist in the resolution of existing service and other issues between municipalities. This program would train former councillors and administrators as arbitrators. The program should be supplemented by having a standing offer list of professional arbitrators available for more complicated situations.
2. **Dispute Mechanism Clause** - All new provincial projects or programs that involve two or more municipalities should include a dispute mechanism clause.
3. **Binding Arbitration Process** – UNSM develop a timely, fair process to deal with situations where a voluntary process has not been successful and where there is no other recourse. Binding arbitration should only occur when the issues between municipalities are “significant”. Consideration will be given to establishing, for example, a panel of 3 arbitrators to consider all factors, including Councils' original positions on the project, the decision making process used to move the project forward from the beginning, appropriateness of the design and size of the facility, fairness to all residents, etc The municipality requesting arbitration will pay the cost.

Goal 4: Make the tax burden on citizens for regional services fair

The primary means for municipalities to raise revenues is through property taxation. Rates differ among municipalities in light of factors such as levels of services provided, the ratio of residential to commercial and industrial development, and the wishes of citizens.

There are situations where residents of one municipality are receiving services from another, or using the services of a neighbouring municipality. The Task Force believes there should be some equity as to who pays what.

This is premised on the philosophy that those who benefit from the service should pay for the service.

If, for example, it is determined after a new facility is constructed or infrastructure installed, that it is receiving significant use from other municipalities, the host municipality should be able to request binding arbitration to resolve the issue.

There are a number of ways that user pay can be calculated including:

- all tax payers pay, i.e., for fundamental services,
- all those within a certain distance of the service pay, or
- only those who actually receive the service pay.

Although the Task Force supports the user pay principle, it recognizes that it is not an appropriate mechanism for all services. Some services clearly benefit all citizens and all should contribute. It is also self-defeating if the user pay principle is applied so rigidly that a large number of citizens feel the cost is too high or simply cannot afford to use the service.

Goal 4: Make the tax burden on citizens for regional services fair

Clearly, the best model for determining a fair sharing of the costs is when municipalities start talking early about services that will have a regional impact, for example; a recreation facility that will attract residents from a wide area. When cost sharing and other issues could be ironed out early there are obvious benefits to citizens in all municipalities in the region.

Still, the Task Force believes that when a new service is being constructed in a municipality that potentially will have regional impact, neighbouring municipalities should not be required to take part if they do not wish to. However, if at a future date it is found that many residents from neighbouring municipalities are in fact using the service, the host municipality should have some recourse.

To this end, the Task Force strongly believes in the overriding principle: *“best value and fairness for tax payers regardless of structure”*. This means that municipalities should not waste money on inefficient services, and that all should take some responsibility for paying for services that they receive.

The Task Force recognizes that in achieving some equity for the provision of the regional services there are two different situations at play –new services and existing services.

Regional Services Cost Sharing

RECOMMENDATIONS

1. Cost Sharing Formula Template - The Province and UNSM should develop a template to help municipalities arrive at a cost sharing formula for regional services. The template should provide a means for determining who is using the service and the actual cost of providing it to those from outside the municipality. It should recognize that there are also benefits to the host municipality in having a regional facility which brings in more people

Goal 4: Make the tax burden on citizens for regional services fair

from outside the municipality, for example; many who use a regional area eat at restaurants, shop or buy gas in the area.

Goal 5: Enhance the support for and use of regional service delivery models

The Task Force firmly believes that regional service delivery is essential for the long term health of municipal government in Nova Scotia. This form of service delivery spreads costs and benefits over a wider area, allows for economies of scale, and can result in maintaining rather than increasing property tax levels.

Nova Scotia municipalities recognize the advantage of regional service delivery. A recent survey by SNSMR shows that there are over 200 regional service agreements among Nova Scotia municipalities, ranging from solid waste management to recreation. The Task Force feels that it is important to support these agreements, to encourage new ones through those incentives and to ensure that there are no barriers to putting them into place.

To achieve greater use of regional service delivery, the Task Force believes that there are a number of avenues to pursue, including those relating to provincial programs and funding, and municipal and regional planning. For example; the existing Provincial Capital Assistance Program normally funds projects on a 50/50 cost share basis. This formula could be revised to 75/25 where a service is provided on a regional basis.

The Task Force is also supportive of regional planning and believes that more action should be taken in this regard. For the short term it is clear that discussion between municipalities about planning on each other's boundaries should be formalized.

Also, in order to receive funding, applications should be required to include an analysis of value or opportunity of carrying out the project on a regional basis.

The Task Force also believes that there should be easier means for citizens and developers to access and pay for services from another municipality if all are in agreement.

Goal 5: Enhance the support for and use of regional service delivery models

Provincial Programs and Funding

Programs and funding resources from the Province should recognize the advantage of regional service delivery and provide incentives accordingly.

RECOMMENDATIONS

1. Enhance Provincial Funding - The Province should provide greater provincial funding for projects, particularly capital projects, involving multiple municipalities.
2. Service Delivery Analysis - The Province should require, as part of an application for Provincial funding, an analysis of the value or opportunity option for regional service delivery be included where appropriate.
3. New Provincial Programs – Develop other provincial programs to reward municipal cooperation.
4. MFC Funding Possibilities - That the UNSM and SNSMR work with the Municipal Finance Corporation (MFC) to explore options for regional projects that may fall under the MFC’s mandate.

Municipal Funding Options

The Task Force also believes that it should be easier for citizens or a developer in one municipality to help fund services provided by another that they wish to receive. This would be contingent on all parties agreeing.

Goal 5: Enhance the support for and use of regional service delivery models

RECOMMENDATIONS

1. Area Rate Levy - Amend the MGA to permit an existing development requiring infrastructure, such as sewer services, from an adjacent municipality to recover costs through an area rate levied by the adjacent municipality on the development. This process should be subject to the agreement by both councils and the citizens requesting the service.
2. Infrastructure Charges – Establish a mechanism whereby a developer can pay for costs in an adjacent municipality for extension of services through infrastructure charges with the agreement of the municipalities.

Regional Planning

The Task Force believes that there are a number of advantages for regional planning that municipalities should seriously consider undertaking. The MGA does provide for it, but it has been little used. Although the Task Force does support regional planning, it is not prepared to recommend that it be required or legislated by the Province at this point. However, the Task Force recommends:

RECOMMENDATIONS

Goal 5: Enhance the support for and use of regional service delivery models

1. Consult Adjacent Municipalities - Amend the MGA to require that municipalities developing or reviewing municipal planning strategies (MPS) consult with adjacent municipalities on land just outside municipal boundaries.
2. Encourage Regional Planning - In future, there should be a joint provincial/municipal review of financial incentives and/or legislation in order to encourage more holistic regional planning models.

Goal 6: Provide new tools and incentives to increase economic growth in downtowns

Downtowns are the life blood of Nova Scotia. They provide retail and other services, act as social gathering points for town residents and those from neighbouring municipalities and generate economic spinoffs. Pleasant, vibrant downtowns also work to attract economic development and tourists. Success builds success.

Some Nova Scotia downtowns are thriving, but others are clearly suffering. There are a variety of reasons for this and they are not unique to Nova Scotia. Depopulation, competition from big box stores on the outskirts of towns, high commercial property taxation and changing retail patterns, all play a role.

The problems are easily identifiable, the solutions less so. The Task Force believes however, that without a strong downtown, towns will continue to decline.

The issues facing Nova Scotia towns are not unique, with many other jurisdictions struggling with the same challenge.

The Task Force believes a two-pronged approach is required – one to retain existing businesses and another to attract new ones. There are some programs that worked well in the past in Nova Scotia and the Task Force suggests that some of them could be reinstated.

The Task Force is also of the view that merchants themselves can play a key role in assisting their councils maintain downtown viability through Business Improvement District Commissions.

The Task Force recognizes that the economies of Nova Scotia communities are interrelated and there are opportunities for municipalities to work together to create growth through such tools as joint economic zones.

Goal 6: Provide new tools and incentives to increase economic growth in downtowns

For the most part recommendations in this Task Force report are applicable to all municipalities. In this section however, the recommendations mostly apply to towns and perhaps regional municipalities whose cores are suffering from the same types of issues as towns.

RECOMMENDATIONS

1. BIDCs & Waterfront Development Organizations - The authority of Business Improvement District Commissions (BIDCs) and Waterfront Development organizations should be reviewed to determine if new tools would be helpful to assist these organizations to carry out their role.
2. Downtown Commercial Tax Rates - Towns should be enabled to offer a lower commercial tax rate within defined geographic boundaries of the downtown core. Therefore, the lower rate would apply to all operations within an area and not just to one business.
3. Building Code Review – Undertake a review of the Building Code to seek ways to encourage commercial and residential redevelopment in downtown core. This review would not impact health and safety, but look at means to facilitate the use and reuse of buildings downtown, for example, the construction of residential units over commercial operations on the ground floor.
4. Municipal Development & Leaseback - Amended legislation to permit municipalities to construct or renovate a building and lease it back to the private sector in order to facilitate development in the same fashion as is permitted for incubator malls.
5. Waive Building Permit Fees - Council should have the ability to waive building permit fees and development fees in the downtown area.

Goal 6: Provide new tools and incentives to increase economic growth in downtowns

6. Encourage Brownfield Development - The Province and municipalities should move forward to provide financial tools and other incentives to encourage brownfield redevelopment. For example, tax reduction over a period of time.

Business Attraction/Retention Strategies

7. Mainstreet Program - Consider reestablishing the Mainstreet Program, a successful program formally offered by the Province of Nova Scotia.
8. Municipal Façade Programs - Allow for municipal façade programs as a means to assist private businesses in downtown areas.
9. Joint Development Zones - Amend legislation to allow and encourage the creation of joint development zones between two municipalities, even if they are not geographically connected. The zones would have one residential and one commercial tax rate. The rates which may be different than those in the partner municipalities should also have one set of by-laws and service levels such as planning, street standards, and fire protection. These joint development zones should be established through a public hearing process.
10. Tax Increment Financing Programs - Amend legislation to allow tax increment financing programs. This process would see a municipality determine the base property taxes that are being collected in an area. It would then borrow money to improve the area and all revenue generated as a result of the improvements will be used to repay the loans, etc. After a certain period, all tax proceeds from the area would revert to general revenue.

Commercial/Residential Gap

11. Lower Commercial Tax Rate – Municipalities need to recognize that the commercial-residential tax gap is a growing problem and should consider lowering commercial tax rate to promote healthier commercial sectors.

OTHER

Roads

The Task Force recognizes that owning and maintaining roads is part of the responsibility of being a town. However, this results in a significant cost burden on town residents and businesses. The Task Force believes that the cost of roads and road maintenance faced by towns must be addressed to assist with their long term viability. This issue should be part of a larger discussion.

The Department of Transportation and Infrastructure Renewal (TIR) maintains roads outside of towns, and the Task Force sees merit in exploring opportunities to work more closely together and identify potential mutual efficiencies in such areas as engineering, tendering and plowing. The Task Force has had preliminary discussions with TIR on this issue.

RECOMMENDATIONS

1. TIR Dialogue - Ongoing dialogue should be established with the Department of Transportation and Infrastructure Renewal (TIR) on means and ways of increasing efficiencies and cost savings in operations relative to towns. Consideration will also be given to the development of a provincial cost sharing program for Towns, similar to Rural municipalities.

Policing

Policing is another service that is costly for all municipalities. Some towns and regional municipalities have their own police force, while others and all rural municipalities rely on the RCMP. The Province and municipalities have separate discussions underway on this and the Task Force supports this process.

IMPLEMENTATION

The mandate of the Task Force was to look at issues facing towns and work cooperatively with all municipalities in the UNSM to arrive at mutually agreed recommendations.

The Task Force believes that this, “A Path to Municipal Viability” report, will have a positive impact on the viability of towns and municipalities across the Province.

Still, the Task Force recognizes that this report and its recommendations will not solve all the problems and that an ongoing effort will be required to ensure a positive future for Nova Scotia municipalities.

This may require even greater structural changes to meet these challenges head on, changes that are beyond the Terms of Reference for this Task Force.

Such challenges are not necessarily unique to Nova Scotia, but we cannot afford to sit on the sidelines and wait to “see what happens”. We need to continue to move forward to ensure a strong future.

RECOMMENDATIONS

1. In Implementation Committee - That a joint provincial/municipal committee be established to assist with the implementation of the recommendations of this report.

In the longer term, the Task Force recommends:

All-Municipalities Issues Investigation - That a process be established to look at the issues facing all municipalities. This should include a review of municipal boundaries