

RESOLUTION

2001 REDISTRICTING STANDARDS AND CRITERIA

AND PROCEDURAL GUIDELINES

WHEREAS, the Board of Supervisors feels it would be appropriate to express its position on the adoption of standards and criteria to evaluate redistricting plans and adopt procedural guidelines to be followed for submittals of redistricting plans.

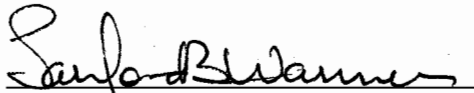
NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the standards and criteria to evaluate redistricting plans and adopts the procedural guidelines for submittal of such plans as set forth in a memorandum to the Board from the County Attorney and the Manager of Development Management dated January 23, 2001, a copy of which is attached hereto.



John J. McGlennon
Chairman, Board of Supervisors

<u>SUPERVISOR</u>	<u>VOTE</u>
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ATTEST:



Sanford B. Wanner
Clerk to the Board

HARRISON	AYE
KENNEDY	AYE
NERVITT	AYE
GOODSON	AYE
MCGLENNON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of January, 2001.

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MEMORANDUM

DATE: January 23, 2001

TO: The Board of Supervisors

FROM: Frank M. Morton, III, County Attorney
John T. P. Horne, Manager of Development Management

SUBJECT: 2001 Redistricting Standards and Criteria and Procedural Guidelines

The purpose of this memorandum is threefold:

1. To provide the Board with background and a schedule of events for the upcoming redistricting.
2. To advise the Board of the most important of the legal parameters within which the redistricting must be accomplished.
3. To adopt standards and criteria, procedural guidelines, and a proposed calendar to guide the staff, Redistricting Advisory Committee, and the Board as the redistricting process unfolds.

1. BACKGROUND

The County will need to be redistricted this year. While the local census data has been promised for early March, the Federal statutes gives the U.S. Department of Justice 60 days in which to accomplish their review. Therefore, given the necessary review times, notification of voters whose voting district or polling places have been changed, it is absolutely necessary that the redistricting package be submitted no later than mid-May.

This presents a challenging time line for staff, the soon-to-be appointed Redistricting Advisory Committee, and the Board of Supervisors. A suggested redistricting calendar has been attached to this memorandum. While it is aggressive, please note that it is premised on receipt of the census data in early March. Should that not occur, changes will be necessitated compressing the schedule even further.

In addition, advances in computer technology have the potential for significant impact on the calendar. The County has GIS software designed specifically for the redistricting process. The earlier the County receives the electronic database of information from the U. S. Census Bureau, the more time staff will have to look at different scenarios by adjusting precinct boundaries, reviewing statistics and creating maps for review at the Advisory Committee meetings.

Another factor is that there is more data to consider and changes to the data for the 2000 Census. For example, the County has substantially more census blocks for the 2000 Census than in 1990 and the census block group numbers have all be renumbered for the 2000 Census.

This will be the first redistricting process the County has undertaken since elected school boards have been established. The districts from which the School Board members are elected are the same as the Supervisors. The standards and criteria set forth later in this document will recognize the elected school board members by attempting, within reasonable efforts, to keep them located in their existing districts.

2. LEGAL PARAMETERS

In discussing the legal implications of redistricting, I will be quoting liberally from the Guide to Local Redistricting for 2001 distributed by the Division of Legislative Services.

Districts

Section 24.2-304.1B repeats the constitutional requirements that local redistricting be done in 2001 and that the districts shall "give as nearly practicable representation in proportion to the population of the district" (the old "one person-one vote" principle)... and that the district must "be composed of contiguous and compact territory." In addition, the Board should be aware of the following requirements:

- Local election district boundaries must follow "clearly defined and clearly observable" lines. §24.2-305. This requirement also applies to precincts.

The following would constitute clearly observable boundaries:

- (a) any named road or street;
 - (b) any road or highway part of the Federal, State, or primary or secondary road system;
 - (c) any river, stream, or drainage feature 40 feet or more in width; or
 - (d) any other natural or constructed or erected permanent physical feature which is shown on the official County map issued by VDOT or on a U.S. Geological Survey Topographical Map. A property line or a subdivision boundary may not be used unless it appears as a block boundary on the census maps.
- Localities are authorized to expend local funds to accomplish redistricting. §24.2-304.2.
 - Redistricting plans must be adopted by ordinance, include a description of the district boundaries and map, and be included in the minutes of the governing body. §24.2-304.3.
 - Copies of the ordinance, description, and map must be sent to the: 1) Local electoral board; 2) Secretary of the Commonwealth; 3) State Board of Elections; and 4) Division of Legislative Services. §24.2-304.3.
 - As provided in the Constitution, any citizen of a locality may bring suit to compel redistricting or to challenge a redistricting plan for violating equal population requirements. §24.2-304.4.
 - Localities must notify the Attorney General's office of any civil action filed to challenge election district boundaries or redistricting plans. §24.2-304.5. See, also, §2.1-121.1.
 - Changes in local election districts and precincts must be enacted 60 or more days before a general election. Notice must be published for two successive weeks prior to enactment of the change. Notice of any election district or polling place change must be mailed to voters at least 15 days before the next general, special, or primary election. §24.2-306.

Precincts

It is necessary to review not only the election districts, but also the precincts to determine whether they may have grown too large. Section 24.2-307 provides that County precincts can be established with no more than 5,000 registered voters and no fewer than 100 registered voters. Each precinct must be wholly

contained in one election district, and thus the redrawing of a district line will necessitate an adjustment of a precinct line.

Polling Places

The requirements for polling places are spelled out in §§24.2-310 and 24.2-310.1. There must be one polling place for each precinct. The polling place for a county precinct must (i) be located in the precinct or within 1,500 yards of the precinct boundary, (ii) meet accessibility requirements, and (iii) be located in a public building whenever practicable. It is important to consider the availability of appropriate polling place facilities in drawing local election district and precinct boundaries.

Census Numbers

The Census Bureau has indicated its intent to release two sets of numbers; first, the actual count and second, if they believe them to be more accurate, a set of statistically modified numbers. The 2000 General Assembly enacted legislation (Chapter 884) requiring the General Assembly and localities to use the actual numbers. Litigation continues on this issue, but will not impact the immediate redistricting effort.

Compliance with Voting Rights Act ("VRA")

Section 2 VRA

All states and localities are subject to §2 of the Voting Rights Act as amended in 1982. 42 U.S.C. §1973 (a) and (b)(1982). Section 2 prohibits any state or locality from imposing a voting qualification or procedure that results in the denial or abridgment of the right to vote on account of race, color or status as a member of a language minority group. The plaintiff in a §2 case may show a violation of §2:

"...if, based on the totality of circumstance, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a [protected] class of citizens...in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice."

Section 5 VRA - Preclearance

As the Board is aware, the County cannot implement any redistricting plan until it is "precleared" by U.S. Department of Justice. The standard applied is "retrogression," i.e., whether the plan or change will result in denying or abridging a person's right to vote on account of race or color.

The U.S. Supreme Court stated that...the purpose of §5 has always been to insure that no voting-procedure changes would be made that would lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise. 425 U.S. 130, 141 (1976).

With respect to acceptable deviations, the law now accepts plans that contain a total deviation under 10 percent, i.e., plus or minus 5 percent.

Traditional Redistricting Criteria

It is still important to consider the "traditional criteria" such as:

- Population equality;
- Compactness;
- Contiguity;
- Avoiding splits of political subdivisions and precincts;
- Preserving communities of interest;
- Preserving the basic shape of existing districts;
- Protecting incumbents and avoiding the pairing of incumbents;
- Political fairness or competitiveness; and
- Voter convenience and effective administration of elections.

Finally, we note that in the 1991 redistricting racial demographics were perhaps the most important single factor to be addressed in the process. While racial demographics remain extremely important, they can be considered only as one aspect of the process.

3. STANDARDS AND CRITERIA AND PROCEDURAL GUIDELINES

With the appointment of the Redistricting Advisory Committee, it is our judgment that the standards and criteria set forth herein will help to focus the Committee's attention on those matters the Board feels are important. In addition, the submittal procedures will aid in documenting our submittal to Justice. Therefore to meet the challenge of the 2001 redistricting requirements, we recommend that the Board consider the following steps:

1. Adopt standards and criteria to be used to evaluate each redistricting plan considered; and
2. Adopt procedural guidelines to be followed for the submittal and review of redistricting plans.

Standards and Criteria

Basic standards and factors important to the Board should be clearly stated. These standards and factors should be used to evaluate each redistricting plan considered. The following are suggested:

All the criteria, with the exception of 7, are mandated by Federal, State, or the County's Charter.

1. Five election districts shall be maintained. (James City County Charter)
2. Each election district shall be as nearly of equal population as practicable. The deviation from district to district shall be less than 10 percent (plus or minus 5 percent deviation). (VA Code Section 24.2- 304.1B)
3. Each election district and each precinct shall be composed as nearly as practicable of compact and contiguous territory. (VA Code Section 24.2-304.1B)
4. Each election district and precinct shall have clearly defined and clearly observable boundaries. Historic lines which appear as a block boundary in the United States Bureau of the Census map for the 1990 Census may be considered as an appropriate boundary. (VA Code Section 24.2-305)

5. The redistricting shall not dilute the voting opportunities of any racial or language minority group. Voting Rights Act Section 2
6. Known communities of interest shall not be divided into separate election districts if reasonably possible. (See Guide to Local Redistricting for 2001, Page 27)
7. If reasonably possible given the goal of equal population between districts and the Voting Rights Act, incumbent members of the Board of Supervisors and the James City County members of the Williamsburg/James City County School Board shall remain located in separate election districts as they are currently aligned. (See Guide to Local Redistricting for 2001, Page 39)

Procedure for Submittal and Review of Plans

The Department of Justice has requested that the preclearance submittal include:

- (a) all plans submitted to the Board of Supervisors;
- (b) all plans considered by the Board of Supervisors;
- (c) the action taken by the Board of Supervisors on each plan specifying the reason for rejecting or approving the plans; and
- (d) transcripts or minutes of all meetings considering the plans.

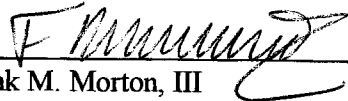
To meet this submittal objective, we recommend:

- 1) All plans shall be submitted to the County Administrator.
- 2) Each plan shall consider and include the entire County.
- 3) The County Administrator shall assign a number to each plan for purposes of record keeping.
- 4) Any plans initiated by Board members shall be prepared with staff assistance so that they can be drawn on appropriate maps.
- 5) A clear deadline for the submittal of plans should be established to allow the Board reasonable time to consider plans in advance of the deadline for adoption.
- 6) Each plan received by the County Administrator for Board consideration shall be available for public inspection.
- 7) The Board shall consider each plan and specify the reasons for rejecting or approving the plans.
- 8) The Board, at a public meeting, may adjust, amend, or modify any plan before it or create a new plan. Such plan shall be assigned a number and shall be considered by the Board as a separate plan for purposes of review, approval, or denial.

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RECOMMENDATION

Attached are two resolutions adopting the redistricting standards and criteria and procedural guidelines set forth herein and a suggested redistricting calendar. Staff recommends adoption of both resolutions.


Frank M. Morton, III


John T. P. Horne

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Attachments