

COUNTY OF YORK

MEMORANDUM

DATE: February 22, 2011 (BOS Mtg. 3/1/11)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Redistricting – 2011

INTRODUCTION

This year it will be necessary for the Board to redraw the County's election district boundaries. Based on the principle of "one person, one vote," Federal and Virginia law require election districts to be drawn every ten years, following the decennial census, so as to be relatively equal in population. The current election districts met this requirement ten years ago, but, because the geographic distribution of population growth since 2000 has been uneven, they no longer do. Because of various factors and requirements beyond the County's control, including most significantly the fact that 2011 is an election year for the County, the time available for consideration and action is relatively short as will be described in this memorandum. As such, redistricting discussions will need to be scheduled for the Board's March 1st, March 15th, and April 19th meetings.

REDISTRICTING CRITERIA

The criteria for redistricting include specific Federal and state legal requirements as well as traditional criteria that are not required by statute but have been recognized by the courts. The Board can also establish redistricting criteria of its own, as long as they do not conflict with any of the legal requirements.

- **Equal Population.** The fundamental criterion for redrawing election district boundaries is that all of the districts must be relatively equal in population. Obviously it would be virtually impossible to draw the lines in such a way that each district has the exact same population, so a certain amount of deviation is permitted. No district should deviate from the ideal population by more than $\pm 5\%$.

The official 2010 Census count for York County is 65,464, so the ideal election district population is 13,093 (65,464 divided by five districts). With a maximum deviation of $\pm 5\%$, each district population must be between 12,438 and 13,748; Districts 3 and 5 are both within this population range, while Districts 2 and 4 are too small (12,093 and 12,089 respectively) and District 1 too large (14,741).

- **Compact and Contiguous.** The Virginia Constitution states that local election districts must be composed of compact and contiguous territory. Whether or not a district is compact is a fairly subjective matter for which no legal standard has been established. Contiguity, on the other hand, does have a legal standard: no area can be included in a district if it does not share a common boundary with that district. That

is, the district must be all of one piece and cannot consist of two or more unconnected territories. A district boundary does not have to be land; bodies of water are acceptable boundaries.

- **Race.** The Federal Voting Rights Act of 1965 bans racial discrimination in voting. Redistricting plans can have neither the intent nor the effect of denying or abridging anyone’s right to vote on account of race, color, or status as a member of a language minority group (i.e., Hispanic). Redistricting plans should strive not to dilute minority voting strength, but case law can be confusing as to what constitutes dilution. On the one hand, plans that “pack” minority voters into one minority-populated district to prevent them from having an effective voice in more than one district have been rejected, but so have plans that “crack” a concentration of minority voters into several districts to prevent their effective control of one district. Dilution is measured by comparison to the most recently approved redistricting plan, which in the case of York County is the 2001 redistricting that gave us our current district boundaries.

When the County last redistricted in 2001, it was not possible to align the five districts in a manner to create a “majority minority” district where the majority of the district population was nonwhite. Between 2000 and 2010, the nonwhite population grew by 37.1% while the white population grew by 11.8%. As a result, the nonwhite proportion of the County’s population has grown from 20% to almost 24%. As shown in Table 1 below, the nonwhite groups with the most growth have been the Asian, black, and multi-racial populations. (All multi-racial residents are classified as nonwhite even if they are white in combination with one or more other races.) Among all minority groups, however, the Hispanic population (which is considered a language group and not a racial group) has experienced the most growth.

Table 1

Race/Language Group	2000		2010		Change, 2000-2010	
	Number	Percent	Number	Percent	Number	Percent
One Race	55,169	98.0%	63,221	96.6%	8,052	14.6%
White	45,038	80.0%	50,031	76.4%	4,993	11.1%
Black	7,533	13.4%	8,751	13.4%	1,218	16.2%
American Indian/Alaska Native	195	0.3%	251	0.4%	56	28.7%
Asian	1,829	3.2%	3,205	4.9%	1,376	75.2%
Native Hawaiian/Other Pacific Islander	65	0.1%	99	0.2%	34	52.3%
Some Other Race	509	0.9%	884	1.4%	375	73.7%
Two or More Races	1,128	2.0%	2,243	3.4%	1,115	98.8%
Hispanic or Latino (any race)	1,509	2.7%	2,892	4.4%	1,383	91.7%
TOTAL	56,297	100.0%	65,464	100.0%	9,167	16.3%

The growth in the nonwhite population is reflected in the racial composition of the election districts. Tables 2 and 3 compare the racial and language group composition of each of the current election districts based on 2000 and 2010 census figures:

Table 2

District	2000 Population				2010 Population			
	White		Nonwhite		White		Nonwhite	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
1	9,125	77.8%	2,599	22.2%	10,794	73.2%	3,947	26.8%
2	8,171	74.8%	2,753	25.2%	8,417	69.6%	3,676	30.4%
3	8,794	79.2%	2,312	20.3%	10,552	77.9%	3,002	22.1%
4	9,874	89.5%	1,154	10.5%	10,559	87.3%	1,530	12.7%
5	9,074	78.8%	2,441	21.2%	9,709	74.8%	2,441	25.2%
TOTAL	45,038	80.0%	11,259	20.0%	50,031	76.4%	15,433	23.6%

Table 3

District	2000 Population				2010 Population			
	Hispanic		Non-Hispanic		Hispanic		Non-Hispanic	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
1	224	1.9%	11,500	98.1%	684	4.6%	14,057	95.4%
2	503	4.6%	10,421	95.4%	741	6.1%	11,352	93.9%
3	217	2.0%	10,889	98.0%	521	3.8%	13,033	96.2%
4	244	2.2%	10,784	97.8%	380	3.1%	11,709	96.9%
5	321	2.8%	11,194	97.2%	566	4.4%	12,421	95.6%
TOTAL	45,038	2.7%	11,259	97.3%	2,892	4.4%	62,572	95.6%

As the data in Tables 2 and 3 indicate, the growth in the nonwhite and Hispanic populations has been spread out across all five election districts, making it extremely unlikely that a “minority majority” district can be created.

- **Other Criteria.** According to the General Assembly’s Division of Legislative Services, there are several other “traditional redistricting criteria” that have been recognized by the courts in recent years. These include the following:
 - Avoiding splits of political subdivisions, precincts, and census blocks;
 - Preserving communities of interest;
 - Preserving the shape of existing districts to the extent feasible;
 - Avoiding placing two or more incumbents in the same election district;
 - Political fairness or competitiveness; and
 - Voter convenience and effective administration of elections.

Finally, election district and precinct lines should follow “clearly defined and clearly observable” boundaries (i.e., roads, creeks, streams, etc.), and should be drawn to follow census block boundaries. The census block is the smallest geographical unit for which the census provides population counts. Use of whole blocks provides integrity in the population counts for the district and helps to ensure that district lines follow identifiable features. The census block criterion affects The Landings at Langley (formerly Bethel Manor) housing complex, which is currently divided between Districts 2 and 5. This housing development for Langley Air Force Base is undergoing a demolition and redevelopment project that will result in a new street layout; unfortunately, the 2010 census block counts are based on the previous street layout, which does not conform to the new post-redevelopment layout. The one street

in this development that is used to define block boundaries and will not change is First Street, which extends from Hampton Highway (Route 134) to Big Bethel Road. For this reason, there appears to be no alternative to making First Street the dividing line between Districts 2 and 5, leaving the area to the east (270 residents) in District 5, with the remaining 3,522 residents in District 2.

ALTERNATIVE REDISTRICTING PLANS

Using these criteria as guidance, staff is preparing a variety of alternative redistricting plans for distribution and discussion at the March 1 work session. All of the alternative plans will be guided by the premise that Board will wish to preserve its status as a five-member body. They will not represent the full range of possible alternative scenarios. For example, the pairing of incumbents – for both the Board of Supervisors and the School Board – will be avoided in every alternative. If that were not the case, numerous other alternatives could be devised. Although a variety of options are available, the range of options is limited by various factors, which are discussed below:

- **District 1.** With 12,754 residents, the upper County meets the minimum requirement to serve as a single district without any extension into the lower County. While this would ensure that for at least the next ten years, District 1 would be represented by upper County residents, it would also require more lower County residents to be shifted than would otherwise be necessary. In any event, it is likely that the Marlbank area (1,457 residents) will have to be shifted from District 1 into District 3, which is adjacent. There appears to be no other way to reduce this district to an acceptable size without splitting the upper County. With Marlbank shifted to District 3, the Board would then have the options of shifting Yorktown, the Moore House Road area, and the Coast Guard base into District 3 or leaving them in District 1. Also, the relatively small area between Goosley Road and the Naval Weapons Station (which includes Riverwalk Townes and The Woods at Yorktown) could be shifted from District 3 into District 1 to bring it closer to the ideal population.
- **District 2.** As previously noted, because the census block boundaries do not conform to the new street layout in The Landings at Langley, it will be necessary to shift 770 residents from District 5 into District 2. That change by itself would give District 2 enough residents to meet the minimum district size requirements. Depending on what changes are made to the other districts, however, District 2 might need to be extended past Denbigh Boulevard to the CSX railroad tracks or all the way to Fort Eustis Boulevard. An additional possibility is to shift the Kentucky Heights area north of Oriana Road from District 2 into District 4, which would provide for a more compact District 2 and a more contiguous District 4.
- **District 3.** As previously noted, District 3, which is already above the ideal district size, will have to absorb the Marlbank area. This will increase the district's population to almost 15,000, which will require some residents to be shifted to another district. The area bounded by Route 17, Burts Road, Oriana Road, the Poquoson River, and Denbigh Boulevard (which includes Glen Laurel, Grafton

Woods, and Rainbrook Villas) is the most likely candidate, primarily because District 4 is too small and has very limited opportunities for expansion. Additional options include shifting the areas west of Route 17 north to the railroad tracks and/or Fort Eustis Boulevard into District 2 or 4.

- **District 4.** District 4 is 1,004 residents below the minimum district population and will have to be enlarged. Geographically, the most logical adjustment would be to shift the adjacent area bounded by Wolf Trap Road, Goodwin Neck Road, and Route 17 from District 3 into District 4. However, this would place two incumbent School Board members into a single district. Barring that change, the next most logical option would be to shift the Glen Laurel/Grafton Woods/Rainbrook Villas area from District 3 into District 4. While this change alone would give District 4 enough residents to meet the legal requirements, it will also be necessary to shift some residents into District 5 to compensate for some of the 770 Landings at Langley residents who will need to be shifted into District 2. The most obvious options are to shift either the area bounded by Yorktown Road, Victory Boulevard, and Hampton Highway (366 residents) or the area east of Tide Mill Road from District 4 into District 5 (310 residents). The shifting of either of these areas would bring District 5 into conformance with the legal population requirements.
- **District 5.** District 5 currently meets the district population requirements; however, as noted previously, some residents of The Landings at Langley will have to be shifted into District 2, causing District 5 to fall below the minimum required population. This can be addressed by shifting either the area bounded by Yorktown Road, Victory Boulevard, and Hampton Highway or the area east of Tide Mill Road from District 4 into District 5.

Each alternative has its own merits and flaws, and, because the redistricting criteria serve differing purposes, there may not be a single best alternative. The Board will need to weigh the relative importance of each criterion and develop a redistricting plan that strikes the balance among them that it believes is appropriate. It is also possible that through the public involvement process, other alternative plans may emerge that are worth examination.

PUBLIC INVOLVEMENT

Public involvement is an important part of the redistricting process. Section 5 of the Voting Rights Act encourages localities, as part of the Justice Department's preclearance process, to document efforts at publicity and public participation, including the participation of minority group members. Specifically, the Act encourages the submission of "evidence of public notice, of the opportunity for the public to be heard, and of the opportunity for interested parties to participate in the decision to adopt the proposed change and an account of the extent to which such participation, especially by minority group members, in fact took place." Accordingly, staff proposes to conduct three public meetings in the upper, middle, and lower County (at the Griffin-Yeates Center, the Yorktown Library, and the Tabb Library) between March 1st and March 15th

to give citizens an opportunity to review and comment on the alternative plans that have been developed or to suggest other alternatives for consideration. As in 2001, these will be “VDOT-style” public meetings with no formal presentation but with staff available to answer questions and record citizen comments and suggestions, which will then be compiled and forwarded to the Board. In addition, I propose to post the alternative redistricting plans on the County web site to enable citizens to review them and submit comments online.

Following the public meetings, the Board will have the opportunity to review the public input and, at its regular meeting on March 15, and select a redistricting plan to be advertised for public hearing and action at the April 19th meeting. A new redistricting plan cannot be implemented, however, until the Justice Department has granted “preclearance,” which would be within sixty (60) days of the County’s submittal of the adopted redistricting plan.

PRECLEARANCE

Virginia is one of nine states that, because of a history of past discriminatory practices, are covered by the “preclearance” requirement set forth in the Voting Rights Act, which requires redistricting plans in Virginia and most of its localities to be precleared by the Department of Justice before an election can be conducted with the new district boundaries. Since 2011 is an election year (unlike 2001 when the County last redistricted), the preclearance requirement dictates a short and somewhat constrained timetable for completing the redistricting process. (Fortunately, the Virginia General Assembly has moved the primary election date for local offices from June 14 to August 23; otherwise, it would have been impossible for redistricting to be completed in time for the primary election.) Timing is not the only problem; the process of preparing a preclearance submission is somewhat cumbersome and utilizes significant staff time and resources.

There is an opportunity for relief from this requirement, not this year but for future years. The Voting Rights Act provides for a so-called “bailout” procedure by which localities can request exemption from the Section 5 preclearance requirement by filing an action in federal district court and demonstrating a history of at least ten years of full compliance with the Voting Rights Act. The Cities of Fairfax, Harrisonburg, Salem, and Winchester and the Counties of Amherst, Augusta, Botetourt, Essex, Frederick, Greene, Middlesex, Page, Pulaski, Roanoke, Rockingham, Shenandoah, Warren, and Washington County are no longer subject to this requirement, having demonstrated a ten-year record of compliance with the Voting Rights Act and having met other defined requirements. Once this year’s redistricting process is completed, the Board may wish to consider seeking an exemption from this requirement. It should be noted that the preclearance requirement applies not just to redistricting but to any voting change, such as the creation of a new precinct or the relocation of a polling place. In 2006, the U.S. Congress amended the Voting Rights Act to continue the preclearance requirement for 25 years to 2031, another redistricting year for Virginia and York County.

RECOMMENDATION

At the March 1st meeting staff will provide maps depicting the various alternatives described above. After review and discussion of those alternatives, and any others that the Board wishes to suggest, I recommend that staff be authorized to conduct the above-mentioned public information meetings. Subsequently, a summary of all comments received will be prepared for review and consideration by the Board with the goal of enabling the Board to select, at its March 15th meeting, an alternative redistricting plan to advertise for a public hearing and action on April 19.

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Copy to: Mark A. Medford, Chairman, York County School Board
Charles F. Noll, Chair, York County Electoral Board
Walt T. Latham, Jr., General Registrar
James E. Barnett, Jr., County Attorney