Attachment 10

28 C.F.R. § 51.28(f)(3)

Account of the Board of Supervisors’
May 4, 2011 public hearing
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(Verbatim, with minor grammatical corrections and incomplete clauses deleted to improve readability)

Larry Davis

Today the matter on the agenda is an ordinance to establish the magisterial districts, precincts, and polling places for the County. This process is required every ten years after the Federal Census has been completed. What it basically involves is meeting some federal and local criteria. The primary Constitutional requirement is that the election districts be equalized in population. The standard that has been adopted is that the population should be within plus or minus 5 percent. The County initiated a process to complete this task.

At the direction of the Board, a staff committee conducted a public meeting on January 20th to receive input on the process, as well as to hear any issues or concerns. On March 2nd, the Board adopted guidelines which incorporated the federal and state requirements and some local policies all within the legal framework. On April 6th, the Board held a work session where you reviewed two plans and received comment and provided feedback to staff.

Based on all of that, the adopted guidelines, the feedback and the work session, staff has put forth a plan which we entitle Plan 1A, which looks very similar to Plan 1 that you reviewed at the work session on April 6th. The only difference in this plan is a change in the proposed precinct boundaries within the Cale precinct, whereas the staff committee proposed splitting the Cale precinct in order to better meet the population goals for a precinct. The state redistricting plan for the House of Delegates would have created a split precinct. We are no longer recommending splitting that precinct so that the Cale precinct will remain intact and be dealt with at a later time as we further analyze ways to attack the growing voting population in the district, but it's still within the guidelines at this point.

Very quickly I would like to go over the plan. The target population based on equalizing the population, which we call the Ideal Population, would be 16,495 persons in each district. Based on the growth in the County over ten years, generally the growth was pretty evenly spread amongst five districts. The one exception was the Jack Jouett District which did not grow very much. Scottsville, on the other end, grew more. The Rio, Rivanna, Samuel Miller, and White Hall Districts grew fairly proportional, and they go outside of the plus or minus 5 percent, so adjustments were required.

The most significant adjustment was required in the Scottsville District. It has 2,530 people in excess of the Ideal Population, and in the Jack Jouett District, which has 1,932 people
less than the Ideal Population. Based on that, the map before you, which Damon has projected on the screen, shows the changes.

Very quickly, what I would like to do is first focus in on the change between the Samuel Miller and the Jack Jouett Magisterial Districts. What has occurred in this recommended plan is that the eastern most portion of the East Ivy precinct that was previously in the Samuel Miller District would be moved to the Jack Jouett Magisterial District. This is a change we discussed at the work session because it was going to be split by a proposed House of Delegates plan. With the assistance from Delegate Landes, Delegate Bell, and Delegate Toscano, they were able to move that line to make it a geographically defined line that did not split our proposed precinct, which follows the 29/250 boundary there, as Damon is pointing out, which is now a very good boundary line. With the addition of that area and population to the Jack Jouett District it increased the Jack Jouett District by 2,444 people, and that balanced the population in the Jack Jouett District to within the plus or minus 5 percent of the Ideal.

The second change that we focus on is the Rivanna/Rio Magisterial District change. The existing Rivanna Magisterial District had two neighborhoods that were on the other side of Route 29 from the rest of the Rivanna District, which was not a good boundary line under the criteria for magisterial districts. By moving those two neighborhoods in the area identified as Area 2 [to the Rio District], which involved 1,125 persons, that balanced the populations for the Rio District and the Rivanna District, with Rio gaining 1,125 people, which brought it within 1.8% of the Ideal Population and with Rivanna losing that area, it brought it within 1.8% of the Ideal Population, and no other changes were required in those districts in order to meet all the criteria.

The next area is the Scottsville and Samuel Miller Districts. The population, as I had referenced earlier, in the Scottsville District needed to be significantly reduced in order to meet the Ideal Population. In looking at all the criteria, it appeared that the best way to address that problem was to move the entire Porter’s precinct from the Scottsville District to the Samuel Miller District. The Porter’s precinct has 2,396 persons identified by the Census. By moving that precinct out of the Scottsville District to the Samuel Miller District, it brought the Scottsville District within .77% of the Ideal Population. It did not require any other adjustments or movements, and as I say, it met all the other criteria of the guidelines and the state and federal criteria without making any other change other than that one entire precinct movement.

Finally, in the White Hall and Samuel Miller Districts, there were three changes that happened to the Samuel Miller District. First, the entire Yellow Mountain precinct, which was previously in the White Hall District, has been shifted to the Samuel Miller District. That shift in White Hall involved 951 people, and moving those 951 people out of the White Hall District brought it within 1.82% of the Ideal Population and did not require any other changes to the White Hall District. Finally, we’ve already discussed that the Porter’s precinct was moved to the [Samuel Miller] District. Then, to offset the additional population from the Porter’s precinct and
the Yellow Mountain precinct, the difference in the population was the shift in East Ivy, which we described as part of the Jack Jouett change. All those things together balance the Samuel Miller District within 2.76% of the Ideal Population.

The other change that was necessary to meet the precinct requirements for population and active voters was in the Rivanna District where as a result of moving the Briarwood and Camelot subdivisions to Rio that required an adjustment of the precincts in Rio to include those and a reduction in the precincts in the Rivanna District. As a result of that, with the assistance from the Registrar’s Office, it was determined that the size of those precincts needed to be adjusted to meet the ideal sizes. As a result, the recommendation is to have a reconfigured precinct that would be now called the Baker-Butler precinct which would have a polling place at the Baker-Butler Elementary School and to have a reduction in the size of the Hollymead precinct which would continue to have its polling place in its existing location at Hollymead Elementary School.

The final analysis was to review all the guidelines which we have provided to the Board in Attachment B. These guidelines assure that there is an equality of the population now within the districts. They have assured that the changes in the magisterial districts do not affect the voting rights of any minority groups, that no protected classes have had their voting rights minimized or diluted. These districts now have and maintain geographical compactness. There are observable boundaries for the districts, which is important in the administration of the Registrar’s obligations to conduct the elections. We have not split communities of interest; we were very careful not to do that. We have maintained the six magisterial districts, and maintained both urban and rural population within each district. It has minimized the changes that were necessary to the magisterial districts. It has avoided pairing incumbents of the School Board or the Board of Supervisors within any magisterial district. We’ve avoided splitting any census blocks, and we have preserved the natural core of all the magisterial districts.

I would be happy to answer any questions the Board may have. The working group is all assembled here today. They’ve done very good work. Jake Washburne and Clarice Schermerhorn from the Registrar’s Office; Tex Weaver, Rod Burton, and Damon Pettitt from the Community Development staff, and Greg Kamptner from my office, have all worked on this. I think they would be of great assistance in answering any questions you may have.

Lindsay Dorrier

I have a question. The community of interest in the Porter’s precinct. The community of interest, I think, basically, has always been more or less the Esmont area and the Scottsville area, and putting Porter’s in the Samuel Miller District moves it from that community of interest and puts it in the [Samuel Miller District]. I’m not saying it’s a bad move. It’s a different situation for Porter’s. You didn’t look at Cale for other than 2,500 people to balance the Scottsville District, did you?
Larry Davis

We did look at that, Mr. Dorrier. Obviously, Scottsville was a challenge because we had to move 2,500 people from a district that most people had been in for a long time, so that there was some necessary change within the magisterial district. In looking at how best to address that necessary shifting of people from Scottsville, there are really two areas we could consider, one was the Cale precinct area and one was the Porter’s precinct area.

The difficulty in the Cale precinct area was that the Cale precinct had about 5,000 people, so in order to make an adjustment in Cale, you would have to split the Cale community, and in looking at that, there weren’t really good identifiable boundary lines that had been recognized. In addition, there was an incumbent School Board member within that area which made an adjustment there difficult without having a very strange looking line or pairing him with an incumbent in the Samuel Miller District. That’s a criteria that had been adopted by the Board that staff tried to honor in making a recommendation. So in the final analysis, we felt that rather than splitting the community interest in Cale and violating the pairing of the incumbents and splitting a historical precinct there in a way that would allow 2,500 people to be shifted from Scottsville to Samuel Miller, the easier and better solution was to look at Porter’s precinct. The Porter’s precinct, we think, does have a community of interest, but we are moving that community of interest in toto to the Samuel Miller District, and we don’t think that it had any substantial impact on any voting population or community of interest that wasn’t necessary in order to meet the voting requirements under the Constitution or the guidelines.

Ann Mallek

I know the folks at Porter’s do feel a great allegiance to Mr. Dorrier and to the Scottsville District, but they also have a great similarity of density; it’s rural in the same way that the southern part of the Samuel Miller District is rural so that they do almost have a larger community of interest with those folks in the southern part of the Samuel Miller District. I know the folks in Batesville have gone back and forth over the line, and when the Mechums line was moved, several times when I was going door to door, they said well no we’re in the [other] district. I said well no, not this year. So people do move back and forth, and we just don’t make the extra effort to look out for them, to make sure it’s okay.

Ken Boyd

I was just going to say I think it’s a little disingenuous for us to tell, one of the things we are not changing, we’re not dividing any communities of interest. I’m not opposed to this plan because I think you’ve done an excellent job in doing it. Everywhere there’s a line, it’s going to separate communities of interest, and it’s always the case. I mean we have to kind of adjust it; but there will always be. We never can say that we’re not going to do it. I feel for what Mr. Dorrier’s saying, because Porter’s has been part of the Scottsville District for a very long time,
and I would agree it is, but we have to do that. There’s no way around it because we have to even out. I’m not trying to discourage what you did because I think you did a very good job. All our staff did a good job, but let’s not kid ourselves. We are going to separate some communities of interest.

Ann Mallek

The boundaries of the three districts go; it’s right in the middle of Earlysville and it does give you claim on lots of different supervisors. That’s a good thing.

Rodney Thomas

I like Mr. Boyd’s comments, too, but I’d like to add a little thing to the end of it. Duane, you’re going to have to charge up your bike a little bit more for this district.

Ann Mallek

I concede the largest district to you. Go for it.

Dennis Rooker

And up and down, a lot of hills, too.

Ann Mallek

Long driveways. Very good.

Larry Davis

And my last comment, Madam Chair, would be that I neglected to give some guidance on where the process goes from here, which I think is important. At today’s public hearing, we hope we will receive public comment on this plan and hopefully the Board will find this plan meets all the criteria that you have suggested. If the Board adopts the ordinance today, staff is prepared to submit to the Justice Department within the next day or two in order to meet a possible deadline as early as July where we have to have an approved plan. If there’s an August primary, the Registrar’s Office is required to send 45 days in advance of that primary absentee ballots to overseas voters. In order to meet that deadline, we really have to have an approved plan sometime by the first week in July. The Justice Department can take anywhere from 60-90 days to approve a submittal, and until the Justice Department gives that approval, we can’t effect the plan. So our hope is that we can adopt the ordinance today if possible and make that submittal so we can be meet those deadlines.
Public Hearing

Cauline Yates

Good morning, Madam Chairman and the Board of Supervisors. My name is Cauline Yates. I am the Chairwoman of the Samuel Miller District. My concern, and I have a question, will there be another public hearing or public forum for the public because there was a meeting held with the Porter’s constituents and they expressed their dismay that the meeting was held during working and business hours when a lot of them could not attend. So would there be another public meeting later in the day when more people could attend for the Porter’s issue being put into the Samuel Miller District?

Ann Mallek

Not as far as I know, according to our time table as is set out at the moment.

Larry Davis

There’s not a scheduled forum or public hearing.

Cauline Yates

So they would have no other public hearing or chance to put their input into this? Thank you.

Valerie L’Herrou

Yes, I’m Valerie L’Herrou and I live in the Samuel Miller District, although I used to live in the Scottsville District. I didn’t move, but the line changed and I actually looked at my deed yesterday and it said it was in the Scottsville Magisterial District, so I’m like oops, I’m not in the Scottsville District anymore. I have a couple of questions. One is, did I understand you to say that East Ivy was no longer going to be a split precinct?

Larry Davis

That’s correct.

Valerie L’Herrou

Okay. So there’s just going to be three split precincts, all in the Rivanna District.

Larry Davis

There will actually be, if I may, there will actually be three split precincts caused by the Senate plan, which was adopted late last week, which would split the Rio Magisterial district, the Jack Jouett precinct, the Woodbrook precinct, and the Rio Magisterial District. The Jack Jouett
precinct and the Jack Jouett magisterial district and the Stony Point precinct in the Rivanna District. There was also an additional split precinct caused by the House Plan, which is a small portion of the Free Bridge precinct in the Rivanna Magisterial District, which would be split between the 57th and 58th. When they shifted the East Ivy population they had from the 57th District, the 57th had to add population, so they grabbed 4,095 people that were in the Free Bridge precinct, but they left 460 people in that precinct in the 58th District. They had very strict population criteria where they did not want to exceed 1 percent population deviations in the House districts, and in order for them to stay within that 1 percent, they found a line that split the Free Bridge precinct that left 460 people in the 58th. So, as a result of that, we have under this plan four split precincts. We do feel that there will be opportunities over the next year to perhaps resolve some of those precinct changes after the General Assembly has a chance to look at these again next year. In the General Assembly, it often is the case that they will do some minor tweaking and adjustments to avoid the administrative problems that are caused by split precincts. There’ll be an opportunity to address it at that time.

Valerie L’Herrou

I remember from 2001 that I was in a split precinct, and it was very confusing. You walk up to the table and they had to not only look at your address but see which side of the road you were on and all of that. I know how confusing it is for voters when they walk in and they don’t know what race they’re supposed to vote in. But that makes sense to wait until the General Assembly makes a change.

I also just wanted to say that I met last weekend with Mr. Dorrier and some members of the Porter’s precinct and there was a lot of discussion about the changing of the border there. It’s not really moving Porter’s precinct so much as it is moving the border to include Porter’s into Samuel Miller, and I think people in Porter’s felt both some dismay at the change but also that there could be some opportunities in the change as well. Although it was frustrating, as Ms. Yates mentioned, to people in Porter’s that both public hearings, the work session, and this session were during the day, which means that it’s hard for working people to attend. Just so for future reference, if maybe a work session or public hearing could be held in the evening on something that affects people’s lives. Maybe there could be an evening work session as well. I understand the time constraints you’re working under. Thank you. I think you’ve all done a very good job to try and keep communities of interest together and make sensible boundary lines. Thank you very much.

Ken Boyd

I just have one other question. Down here on the budget impact, it talks about the $4,400 cost because of the split precincts. How are we getting by for so little? It looks like you may
have to buy some more machines, too. That part I didn’t understand because I think those machines are more expensive than what I’m seeing.

Larry Davis

Jake, you may be able to answer that question.

Ken Boyd

Or do we have extra machines that we can use there?

Jake Washburne

Well, there are two options. One of the options is that the machines that we have can be programmed to different ballots. This is not the preferred way to do it, but it could be done. The second option is that I’ve just been advised by the State Board of Elections that if the Electoral Board feels that we need additional handicap accessible machines for some of our larger precincts, that that would be an acceptable exception to the general moratorium against purchasing additional DRE machines. We’re going to, I think, bring that up for discussion at the next Electoral Board Meeting. In addition to that, Clarice has just checked the State Board’s guidelines for running split precincts and they recommend using a separate machine to allow one ballot on one machine, the other ballot on the other machine. So in light of all of those factors, I think there is the possibility for acquisition of a few more DRE machines with the handicap accessible option, which would give us more leeway for all the precincts.

Ken Boyd

I think I understand that part, but you’re saying it’s only going to cost $4,400. How are we going to buy more machines?

Jake Washburne

Well, at the time I put that number together I thought we would have to go with the option of programming a machine with two different ballots. But since that time, I’ve been advised by the State Board that there may be an exception to the moratorium which would permit us to buy some additional DRE machines. If we are able to exercise that option, we do have, I believe, about $91,000 in the capital improvement fund set aside for the purchase of additional voting machines. I think we could maybe access that. In addition to that, we may have some funds that we had not anticipated because, in drawing up the upcoming fiscal year’s budget proposal, it was my understanding that we would have to mail out new voter cards after redistricting, and I put in a request for about $38,000 for postage to do that. About two weeks ago, the State Board advised us that they had found a box full of [inaudible] money and that they were going to take care of the mailing of all the new voter cards across the State. I thought
maybe we could put that money to use for purchasing a couple of new voting machines if all of a sudden this thing fell from the sky courtesy the State Board.

Ken Boyd

The bottom line of my question was, are we going to have to come up with some more money for more machines? It sounds like not.

Jake Washburne

I don’t think so.

Ken Boyd

Okay.

Ann Mallek

If they had planned ahead, knowing that there were going to be increased numbers in voters, it’s just the skill of the committee right now which has cut down on the number of new precincts, which I thought we were going to have to have. So that has made it a little bit better than we were anticipating.

Larry Davis

The Hollymead precinct may also perhaps reduce one voting machine as I understood. By reducing the Hollymead precinct, you may have one additional voting machine?

Jake Washburne

Correct. In a couple of those precincts, by reducing the size of the precinct, that would reduce the number by one.

Dennis Rooker

If you have a split precinct and you have two different delegate races occurring and you’re using the same machine for both races, do they, in effect, when a voter goes in, disable one of the ballots?

Jake Washburne

Correct.

Dennis Rooker

So when somebody goes in .....
Lindsay Dorrier

So in splitting the Cale precinct, will that cause a major problem?

Jake Washburne

Well, as an alternative to taking Porter’s, we did have two of the major concerns there. That’s where Mr. Koleszar lives, up in that little corner there, and the guidelines cautioned us against redistricting him out of his own district. We couldn’t take all of Cale. One, it was too many people, and it would put the balance of population the other way. Two, if we took part of Cale and kept Mr. Koleszar in his precinct, we’d have to find some pretty peculiar boundary lines and potentially split a community of interest which I think was along the South[wood] Trailer Park. There was a concern there. And three, it would confuse a lot of voters in Cale as to where their voting location was. So it was sort of a lesser of two evils. We knew there were things that wouldn’t make everybody happy.

Ann Mallek

The voting places stay the same for everybody on this map we have now. That’s the most important thing, probably of all, is that people will keep going to the same building, except for Baker-Butler.

Dennis Rooker

You’re moving a whole precinct as opposed to splitting a precinct. You have a lot of people who are changing their voting place. It seems it’s certainly better if you can make the move along precinct lines.

Ken Boyd

Are you talking about kind of like what we did to Hollymead by splitting those precinct and changing the locations? I mean, we’re doing something like that already.

Dennis Rooker

I agree, but I think if you could avoid it, it’s a factor to consider. You’ve probably experienced it. In my races I’ve found a number of people that show up to vote at the wrong place.

Larry Davis

But the problem with Hollymead was that it was approaching the 5,000 voter legal limit and we anticipated that within the ten-year timeframe it would surpass it. When you start having
that many people at one precinct, it requires additional voting machines, additional poll workers and other things that complicate the Registrar’s life.

**Jake Washburne**

Just, generally, a greater chance for confusion.

**Ann Mallek**

Well, on the length of time it takes to vote when you have a mob instead of a small mob, it is really much different, and that’s unfairness right there, a 2,500 voter precinct versus a 5,000 voter precinct.

**Lindsay Dorrier**

The rationale for just shifting the whole Porter’s precinct to Samuel Miller instead of taking from Cale, is that it meets all the guidelines that apply, with fifteen the guidelines, that we came up with. Is that how you would describe it? Is there anything we can add to satisfy?

**Ann Mallek**

I think that’s all. Thank you, Jake.

*Ordinance Adopted*