

## CALHOUN COUNTY APPORTIONMENT COMMISSION

April 29, 2011

The Calhoun County Apportionment Commission met at the Calhoun County Clerk-Election's Office, 315 W. Green Street, Marshall, Michigan. Members present were Calhoun County Clerk and Register of Deeds Anne Norlander, Calhoun County Treasurer Ann Rosenbaum, County Prosecuting Attorney Susan Mladenoff, Calhoun County Republican Party Chairman Steve Mobley, and Calhoun County Democratic Party Chairman Jon Byrd. Non-members present included Calhoun County Chief Deputy Clerk of Elections Teri Loew, Calhoun County Deputy Clerk and Register of Deeds Diane Withers, Calhoun County Legal Counsel Richard Lindsey, Battle Creek Enquirer Reporter Barrett Newkirk, and Calhoun County citizens: Eric Strough, Scott Brown, Steve France, Brian VandePolder, Larry Skelding, James and Sharon Everett, Jim Norlander, Sylvia Huyck, Paul Gould, Robert Dirmeyer, Lisa Viviano, Sharon Amsler, and Larry Cortright.

Chairman Mobley called the meeting to order at 12:00 noon. Roll call was taken by Secretary to the Board Teri Loew, all members were in attendance, and a quorum was present. Chairman Mobley led in the Pledge of Allegiance, and then confirmed the meeting was properly noticed according to the Open Meetings Act. He then asked if there were any changes or additions to today's agenda. With none, Prosecutor Mladenoff motioned to accept the agenda as presented, Treasurer Rosenbaum supported the motion. Voice vote: Yes 5, No 0.

Chairman Mobley asked if there were any additions or corrections to the April 21<sup>st</sup> meeting. Jon Byrd mentioned that citizen Scot Brown's name is spelled incorrectly and should include another "t" in Scott. Clerk Norlander motioned to accept the 4/21/11 minutes with the spelling correction. Treasurer Rosenbaum seconded the motion. Voice vote, motion carried – Yes 5, No 0.

Continuing with the agenda, opportunity was provided for Public Comment. Battle Creek resident Lisa Viviano Stated she felt the Byrd Plan Amendment 2 met the guidelines of the Rules of Procedure for the 2011 Calhoun County Apportionment Commission. Battle Creek resident Brian VandePolder complimented both Commissioner Byrd and Clerk Norlander for their effort and hard work in preparing and submitting their plans which he felt were in accordance to previous and current commission districts. He did not intend to be accusatory, however he felt while the original plans were similar in nature but the swings in Districts 2 and 5 were like, in accounting terms, 'Cooking the books'. They are unethical, may be illegal, and in this situation inappropriate.

Chairman Mobley moved to agenda item 6, Discussion of the plans. Clerk Norlander stood and motioned to adopt the Norlander Plan as the 2011 Calhoun County Apportionment Plan. Jon Byrd called for Point of Order that we are only at discussion, item 7 is the adoption of a plan. Chairman Mobley stated that if the motion is supported, we will have discussion. Ann Rosenbaum seconded the motion. Chairman Mobley asked for discussion. Clerk Norlander, author of the Norlander Plan, gave a synopsis of the plan differences and requested it be placed in the record.

- The Norlander Plan has a variance of 9.75% which complies with the Supreme Court Order of 11.9%. Minority District consideration ... Countywide minority population is 17.8%, County Commission District 2 = 40.07%. The Byrd Plan has a variance of 6.01% which also complies with the Supreme Court Order of 11.9%. Minority District consideration ... Countywide minority population is 17.8%, County Commission District 2 = 35.04%. Summary: Both plans meet the 11.9% deviation ordered by the Supreme Court, the best plan is not necessarily the plan with the lowest deviation.
- The Norlander Plan is contiguous in all respects and is the superior plan. The Byrd amended plan is not contiguous.
  - District 2 is divided into two sections that are connected by only one city block on Gogzac Street. This does not comply with the Michigan Court of Appeals decision vol 193 page 231 (1992).

- The Byrd Plan reverses Districts 5 and 6 on his amended narrative and does not correspond with the amended apportionment map or his standard deviation table. District 5 does not comply with the spirit of the law.
- The City of Marshall is almost entirely surrounded by townships in District 6. The Byrd Plan snakes from Leroy thru Athens, Burlington, Tekonsha, Fredonia and Eckford Townships then includes Marshall City which stands alone like the Eiffel Tower. Michigan Court of Appeals vol 193 page 231 (1992).
- The Norlander Plan in the three County Commission Districts in the City of Battle Creek remains the same except for adjustments for population loss. It also keeps the current commissioners in their same district. The Byrd Plan stretches County Commission District 2 from north to south and essentially creates 2 separate districts by connecting District 2 by one block on Goguac Street. It is neither square in shape nor compact. County Commissioner District 5 includes: the City of Marshall along with 3 villages and it is 4 townships wide from Leroy to Eckford with the City of Marshall standing alone. Therefore; District 5 is neither compact nor square in shape.
- Both the Norlander and Byrd Plans comply with sections d, e, f and g of 46.404.
- The Norlander Plan meets all the requirements of the Redistricting Act, and preserves the 7 County Commissioner Districts which has served the citizens of Calhoun County's 4 cities, 19 townships and 4 villages well for the last 20 years. It appears the Byrd Plan gerrymanders the three Commission Districts in the City of Battle Creek for political advantage to the detriment of city residents and two County Commissioners representing the City of Battle Creek.
- In an effort to reduce the variance, the Byrd Plan disregards the other guidelines of Act 261 of 1966. Each guideline must be considered when formalizing the plan. Although the variance is lower in the Byrd Plan than the Norlander Plan, both plans meet the 11.9% variance. The 11.9% variance was upheld in the Michigan Supreme Court. The Norlander Plan is in compliance with all subsections of the Michigan Compiled Laws. The Byrd Plan raises concerns as to its compliance in District 2 and 5 for the following reasons:
  - \* 46.404 Sec. 4 (a) Variance. The Michigan Supreme Court examined this issue in Appeal of Apportionment of Wayne County, vol 413 of the Michigan Supreme Court cases pages 263-264 (1982) when the Court held, "We thus conclude that Acts 261 and 293 require that commissioner district lines be drawn to preserve township, village, city and precinct lines to the extent this can be done without exceeding the range of allowable divergence under the federal constitution (11.9% until the United States Supreme Court declares otherwise) at the least cost to the federal principle of equal population between election districts consistent with the maximum preservation of such lines. Between two or more alternative plans, which comply with that standard, compactness and squareness in shape to the extent practical shall govern."
  - \* 46.404 Sec. 4 (b) Contiguous: The contiguousness of the Byrd Plan in Districts 2 and 5 do not comply with the spirit of the law. Michigan Court of Appeals vol 193 page 231 (1992). Sjoberg vs. Clinton County Apportionment Commission.

Commissioner Byrd, author of the Byrd Plan, stated he disagreed and shared his comments. The minority consideration is important however not a qualification. He stated his standard deviation is superior because of the many breaks and the overall standard deviation is lower, 6.01%.

Regarding contiguousness, he stated his plan incorporates traditional neighborhoods. He was concerned with future population growth in District 5, mainly Leroy Township. He stated his plan does meet the requirements and would hold up in court. He further stated, the Apportionment Commissioners are not tasked with protecting Board of Commissioner districts. He thinks the Norlander Plan does.

Jon Byrd made a motion to amend Clerk Norlander's motion. Treasurer Rosenbaum pointed out that Robert's Rules of Order require the author of the motion to accept the amendment. Clerk Norlander would not accept the amendment.

Since there is a motion and second before the commissioners to adopt the Norlander Plan as the 2011 Calhoun County Apportionment Plan, Chairman Mobley called the question. Roll call vote was taken by the secretary: Mobley: Norlander Plan; Norlander: Norlander Plan; Rosenbaum: yes; Mladenoff: no; Byrd: no. With 3 commissioners in favor of the Norlander Plan, and 2 against, the Norlander Plan is accepted and approved.

Chairman Mobley moved to item 8, Citizens' Comments, there were none.

Item 9 was Apportionment Commissioners' Comments:

Commissioner Byrd was concerned there is potential for a court challenge, and felt the county and taxpayers should be held harmless. He made the following motion: In the event of a court challenge, the Apportionment Commission recommends to the County Board of Commissioners to not use County resources. Clerk Norlander feels the plan adopted by the commission is in compliance with all subsections of the law, and does not feel such action is necessary at this time, if it happens then we can deal with it at that time. She does not recommend we vote for something that hasn't happened yet. Prosecutor Mladenoff supported the Byrd motion. Roll call vote was taken by the secretary: Mobley: no; Norlander: no; Rosenbaum: no; Mladenoff: yes; Byrd: yes. The Byrd motion fails due to lack of support: 3 no, 2 yes.

Commissioner Byrd felt the Apportionment Commission should meet one more time to approve the minutes of today's meeting. Treasurer Rosenbaum suggested the minutes be typed and forwarded to the Commissioners. Clerk Norlander motioned for the minutes to be sent via email to all Apportionment Commissioners for their electronic approval. Treasurer Rosenbaum supported the motion. Voice vote, motion carried – Yes 5, No 0.

Chairman Mobley shared his comments: he believes we have adopted a fair plan, one that maintained and limited changes as much as possible for residents and County Commission districts, and one that reflects the nature of the county. He thanked Commissioner Byrd for his diligence in preparing various plans for the commission. He thanked John LaPietra for his due diligence as a citizen for his efforts in this process and requested this comment be placed on record in his absence. Chairman Mobley thanked Clerk Norlander for her diligence in preparing an effective plan; and to Teri Loew for assisting the Commission as secretary throughout this process. He also thanked the public for seeing the opportunity at hand, and for showing their support through their attendance at these meetings.

Clerk Norlander thanked Steve Mobley for Chairing the Apportionment Commission meetings. She also thanked the public for being here and expressing their interest and concerns regarding the Apportionment process. She also thanked Teri for not only being acting Secretary, but for her other assistance as well. And thanked her husband, Jim Norlander, for his support in crunching the numbers, when he could have been out mowing the lawn.

Commissioner Byrd stated that although we only get together once every ten years, he enjoyed this process and enjoyed working with Steve Mobley and the elected officials. He stated he is all 'colored' out referring to the maps, and isn't interested in seeing any more spreadsheets for a very long time. He also thanked the public for their interest in this process.

There were no announcements under item 10.

In conclusion, the 2011 Norlander, 7, A plan was adopted by the 2011 Calhoun County Apportionment Commission on Friday, April 29, 2011. The seven Commission Districts are as follows:

District 1 has a population of 19,651 and includes: the City of Battle Creek Precincts 3, 4, 5, 11, 20 and 22, and the City of Springfield Precincts 1 and 2.

District 2 has a population of 19,263 and includes: the City of Battle Creek Precincts 7, 10, 12, 13, 15, 16, 17 and 21.

District 3 has a population of 18,693 and includes: the City of Battle Creek Precincts 1, 2, 6, 8, 9, 14, 18, 19 and 23.

District 4 has a population of 19,994 and includes: Bedford Charter Township Precincts 1, 2, 3 and 4, Convis Township, and Pennfield Charter Township Precincts 1, 2 and 3.

District 5 has a population of 20,587 and includes: Athens Township, Emmett Charter Township Precincts 1, 2, 3 and 4, Leroy Township Precincts 1 and 2, and Newton Township.

District 6 has a population of 18,931 and includes: the City of Marshall Precincts 1 and 2, and the Townships of Burlington, Eckford, Fredonia, Marengo, Marshall Precincts 1 and 2, and Tekonsha.

District 7 has a population of 19,027 and includes: the City of Albion Precincts 1, 2, 3, 4, 5 and 6, and Townships of Albion, Clarence, Clarendon, Homer, Lee and Sheridan.

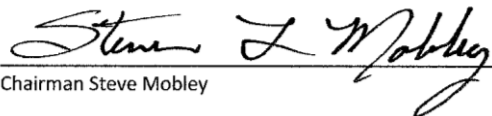
The 2010 Calhoun County Census Total Population is 136,146. The average district population of the seven (7) districts is 19,449. District 5 has the highest population of 20,587, representing a variance of 5.85%, District 3 has the lowest population of 18,693 representing a variance of 3.89%. These two added together total a Countywide variance of 9.74%.

This plan will be filed in the office of the County Clerk today at which time it shall become effective. The resolution adopting this redistricting plan, a map showing the new district lines and district populations in electronic format, and a written description of the new district boundaries will be forwarded by the County Clerk to the Secretary of State. Copies will also be available at cost to any registered voter of the county.

Meeting was adjourned at 12:30 pm.

Respectfully Submitted,  
Teri Loew

May 2, 2011 Electronic Approval: I agree to approve the 4.29.11 minutes as written.

  
Chairman Steve Mobley

  
Vice Chairman Anne Norlander

  
County Treasurer Ann Rosenbaum

  
County Prosecutor Susan Mladenoff

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Calhoun County Democratic Party Chairman Jon Byrd