

**At A Redistricting Work Session of the Sussex County
Board of Supervisors held in the
General District Courtroom, Sussex Judicial Center
Tuesday, April 12, 2011 – 5:00 p.m.**

MEMBERS PRESENT

T. Wayne Birdsong
Wayne M. Harrell

Charlie E. Caple, Jr.
Harris L. Parker

C. Eric Fly, Sr.
Rufus E. Tyler, Sr.

STAFF PRESENT

George E. Morrison, III, Interim County Administrator
Henry A. Thompson, Sr., County Attorney
Andre M. Greene, Director of Planning
Shannon D. Fennell, Assistant to the Director of Planning
Deborah A. Davis, Assistant to County Administrator

Item 1. Call To Order

The April 12, 2011 Redistricting Meeting was called to order by County Attorney Thompson. He distributed documents to those in attendance. He explained that there are several issues that the County must adhere to during the redistricting process. Sussex County has 9,729 persons approximately. He advised that Crater Planning District Commission and Mr. William Cooper (demographer) helped him to cross reference the information. This is the non-inmate total. Given that number, the ideal district would be 1,620.5 citizens (rounded up to 1,621). It is projected that Sussex County will lose population through the year 2030.

He also explained that the largest population in Sussex County since 1800 probably was in the 1900s. In 1910, Sussex County had 13,664 citizens. In developing equal protection, you divide. The Board directed that inmates not be included. Compactness does not mean that it must be as close as possible, even though these plans do that. Compactness basically looks at the shape of the districts. Contiguity is basically that there always has to be some attachment between the districts. There cannot be space between one district jump over and claim that other part as your district. There can be a river (such as the Nottoway River on Route 40), one can follow that river and that would be perfectly legal.

Equal protection, equal representation, compactness and contiguity. The 4th mandatory principal is that of the Voters Right Act, Section 2 and Section 5. Virginia and all its political subdivisions are covered by the Voters Right Act. There were times when minorities were discriminated against, in Sussex County and in Virginia. Given that the Voters Right Act of 1965 indicated that you cannot abridge or dilute the minority voting strength in a redistricting plan.

Item 2. Board's Action Regarding the Redistricting Plan

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR TYLER and carried: RESOLVED that the Sussex County Board of Supervisors hereby adopts a resolution entitled "Action To Initiate The 2011 Redistricting Of The Election Districts Of The Board of Supervisors and Directing County Attorney To Submit The 3/26/11 Redistricting Plan To The U. S. Department of Justice and Request For Expedited Consideration By the U. S. Department of Justice of Sussex County 3/26/11 Redistricting Plan Pursuant to 28 Code of Federal Regulations at Section 51.34(a)."

WHEREAS, the Board of Supervisors does hereby now request that the U.S. Department of Justice provide expedited consideration by May 30, 2011 of this Sussex County redistricting plan, now adopted, to assure absentee ballots can be sent to absent active duty military and overseas applicants at least forty-five (45) days before primary elections scheduled for August 23, 2011 pursuant to 2011 Va. Acts Ch. 3. Va. Code Section 24.2412 implementing the MOVE Act as well as Virginia's consent decree in U.S. v. Cunningham, Case No. 3:08CV709 (12.14.2010) which established a forty-five (45) day standard for sending absentee ballots that cannot be achieved without expedited review; and

WHEREAS, this request for expedited review of thirty (30) days instead of sixty (60) days would greatly benefit voters, particularly absent military and overseas citizens, as well as candidates and election officials who must declare his or her Board of Supervisors or School Board candidacy for local elections on or before the close of day of the Sussex County Registrar's Office on June 15, 2011 as to which election district he or she is seeking office; and

WHEREAS, subject to the preclearance of the state of Virginia state and federal redistricting plans, state primary elections have been moved, pursuant to state HB1507 (now Acts of the Virginia Assembly Chapter 3, from June 14, 2011, to August 14, 2011, while also preserving a full forty-five (45) day window for the transmission of overseas absentee ballots for both the primary and general elections and thus requiring absentee ballots to be sent out by July 08, 2011; and

WHEREAS, should a local primary be held in Sussex County, Virginia, timely disposition of these absentee ballots in compliance with Virginia state statutory deadlines makes it imperative that local redistricting plans be submitted without delay on or before April 29, 2011;

WHEREAS, the Board of Supervisors does now, on April 12, 2011, adopt this final redistricting plan, subject to further public comment and a public hearing regarding the redistricting ordinance, and has and does hereby again authorize the County Attorney to do all that is necessary and lawful to effectuate and give legal authority to this Redistricting Plan Resolution and to submit this adopted Redistricting Plan to the U.S. Department of Justice; and

WHEREAS, the 3/26/11 Redistricting Plan is, attached hereto and expressly incorporated herein as if the same had been stated pictorially and textually verbatim herein,

WHEREAS, the County did utilize the following factors in formulating and drafting its now adopted 3/26/11 Redistricting Plan, to-wit:

I. MANDATORY REDISTRICTING CRITERIA

1. Equal Representation: The ideal election district numerical number, given the 2010 census Sussex County population total population of 9,729 persons is approximately one thousand six hundred and twenty and one-half person (1620.5), excluding the inmate prison population per election district.

A. Equal population. Election districts need not be equal in population. However, the population of the each of the six (6) election districts must have no more than a ten per cent (10%) population deviation from any other election district as permitted by law.

2. Compactness

A. Legal Definition: The compactness requirement applies only to the shape of a district and not to the content of the district. The combination of different communities of interest (such as part of a town and agrarian sparsely populated area) in a district is a policy matter and not a factor to be weighed in applying compactness requirements.

(1) Districts shall be reasonably compact. Irregular district shapes may be justified because the district line follows a political subdivision boundary or significant geographic feature, to prevent retrogression, to protect incumbents or other legally acceptable rationale basis as determined by the Board of Supervisors and the law.

3. Contiguity

Districts shall be composed of contiguous territory.

The contiguity requirement means that any of the six (6) county election districts cannot be composed of two (2) separate and unattached parts of land and must be composed of one (1) geographic land area. A crossing of a river, lake or other body of water or wetlands will not call into question lack of contiguity.

4. Voting Rights Act, § § 2 and 5.

A. District plans shall not dilute minority voting strength and shall comply with § § 2 and 5 of the Voting Rights Act. [42 U.S.C. § § 1971(a)(1)(g)] .

(1) Minority Representation

The 2001 Sussex County Redistricting Plan as codified in the Sussex County ordinances and as approved by the U.S. Department of Justice in 2001, had four (4) minority-majority county election districts with each having a voting age black population (VABP) of at or over sixty three per cent (63%) of that total election district's population. To-wit:

A. Population Summary Report for 2001 Redistricting Ordinance Approved By U.S. Department of Justice 12/17/2001 and Baseline Considered by U.S. Department of Justice

Name	Population	% Deviation	% Deviation	Black	% Black	18+_Pop	NH18+ DOJ_ Blk	%NH18+ DOJ_ Blk	8+Blk	% 18+_Blk
Blackwater	1716	31	1.81%	582	33.9%	1386	460	33.19%	461	33.26%
Waverly	1710	25	1.45%	1287	75.3%	1230	910	73.98%	913	74.23%
Wakefield	1631	-55	-3.23%	1120	68.7%	1152	750	65.10%	750	65.10%
Courthouse	1717	32	1.87%	500	29.1%	1328	387	29.14%	389	29.29%
Henry	1676	-10	-0.56%	1128	67.3%	1268	833	65.69%	837	66.01%
Stony Creek	1669	-17	-0.98%	1075	64.4%	1299	827	63.66%	824	63.43%
	10119			5692	56.3%	7663	4167	54.40%	4174	54.50%

Deviation 8.31%

Note: Population figures exclude prison population

Prison	2385			2077	87.1%	2384	2076	87.08%	2076	87.08%
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B. Preclearance standard—retrogression.

The legal standard to show compliance with § 5 is proof that the plan or change “does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color.” The U.S. Department of Justice and/or Courts in determining whether retrogression has occurred will compare any 2011 redistricting plans with the 2001 redistricting plan. However, all mandatory and non-mandatory redistricting factors have been used and none predominates.

II. NON-MANDATORY REDISTRICTING POLICY CONSIDERATIONS

The degree in which these non-legally binding and non-mandatory redistricting criteria are used is based on the extent that such usage would have a reasonable probability of precluding or lessening a mandatory redistricting criterion.

4. Political Subdivisions

District plans may be drawn so as to avoid splitting counties and towns to the extent practicable. In the 1990's, the Town of Waverly was split between the Blackwater election district and the Waverly election district.

During the 2000-2001 redistricting, the Town of Waverly remained split between the two (2) election districts of Blackwater and Waverly, respectively, and the Town of Wakefield was split between the Wakefield and Courthouse election districts. The U.S. Department of Justice and the Sussex County Circuit Court and the Virginia Supreme Court, on an incidental ruling, and the U.S. Department of Justice each upheld and/or were not called upon with a valid legal challenge. The majority population base of the County is north of Route 460.

5. Communities of Interest

In drawing district plans, consideration was given to preserving communities of interest. However, the sparse population distribution of the County was taken into account.

##Area 493 sq mi (1,277 km²)

- Total 493 sq mi (1,277 km²)

- Land 491 sq mi (1,272 km²)

- Water 2 sq mi (5 km²), 0.43% Population

Density (has increased since 2000 census numbers as county lost population)

12,215 (2000 census number)

26/sq mi (10/km²)

http://en.wikipedia.org/wiki/Sussex_County,_Virginia

The County, as a whole, except for the Towns of Waverly, Wakefield and to a lesser extent Stony Creek and Jarratt is sparsely populated in relationship to the County's total approximate land mass.

II. NON-MANDATORY REDISTRICTING POLICY CONSIDERATIONS

6. Precincts

Precincts, from the 2001 redistricting plan as approved by the U.S. Department of Justice and codified in Sussex County Ordinance at Sections 2-51- 2 and Sections 2-72, respectively, served as the basic building blocks for districts when it is necessary to split any county or town. Sufficient zero to minimal population census population blocks are available for continual use of existing precincts under the 3/26/11 Sussex County 2011 redistricting plan.

7. Existing Districts; Incumbency

Existing districts and incumbency if not in violation of any mandatory redistricting criteria was considered; and

WHEREAS, the Board of Supervisors, in applying the mandatory and non mandatory redistricting criteria to the present codified county election district ordinances (Amended Modified Plan B previously approved by the U.S. Department of Justice) found, when using the 2010 Census population count population change in present six (6) election districts boundaries as adopted in 2001 by Board of Supervisors requiring a redistricting, to-wit:

2001 Six Election District Population:

Individual District Population Deviation: From .074% to 13.08%

Total Six Election District Combined Population Deviation: 25.54%

1. Equal Representation (Maximum ten per cent (10%) population deviation legally allowed): This plan is in violation of this mandatory redistricting criterion. The present Wakefield election district is under populated by approximately two hundred and two (202) persons and has an approximate minus 12.46% population deviation from the ideal 1621 election district. The present Blackwater election district is over populated by approximately two hundred and twelve (212) persons and has an approximate plus 13.08% population deviation from the ideal 1,621 election district. The present Courthouse election district is over populated by approximately one hundred and eighty-one (181) persons and has an approximate plus 11.17 % population deviation from the ideal 1,621 election district.

A. Equal population: The present County Redistricting ordinance has a population Deviation of approximately 25.54%. This is well above the legally permissible 10.00% population deviation; and

WHEREAS, the Board of Supervisors has disseminated information regarding the need to redistrict to county citizens and shall continue to accept ongoing comments from its citizens and in balancing the legal mandates of the laws of Sussex County and the Commonwealth of Virginia as previously stated herein, has determined that the 3/26/11 Redistricting Plan should be filed seeking the approval of the U.S. Department of Justice and the Board of Supervisors shall continue to seek and listen to comments of its citizens and encourage them to also directly contact the U.S. Department of Justice regarding the county redistricting plan and submission, as authorized by this Resolution, for expedited review and decision Pursuant to the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973, and 28 C.F.R. Part 51, and all other amended or applicable regulations and/or statute; and

WHEREAS, a complete copy of the Voting Rights Act Submission shall be, upon filing, available for inspection, review and copying in the office of the Sussex County Administrator's Office, located at 20135 Princeton Drive, Sussex, Virginia 23884-0397, with such complete duplicate copy is available to the public during office hours from 9:00 a.m. until 5:00 p.m., Monday through Friday; and

WHEREAS, in addition to the County prior to its May 19, 2011 public hearing, the general public is invited to make comments to the Attorney General of the United States regarding such Voting Rights Act Submission by Sussex County, in writing addressed to:

Chief, Voting Section
Civil Rights Division
Room 7254-NWB
Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

And;

WHEREAS, in applying the mandatory and non mandatory redistricting criteria, the Board of Supervisors has authorized the County Attorney to submit the 3/26/11 REDISTRICTING PLAN to the U.S. Department of Justice, after careful review and citizens comments with an ongoing review of additional citizens comments, for expedited approval prior to the enactment of its redistricting ordinance to seek a determination as to whether the U.S. Department of Justice shall approve the County's redistricting plan, although the May 19, 2011 public hearing for passage of a redistricting ordinance, subject to public comments, shall proceed and has determined that the 3/26/11 Redistricting Plan provides for:

Individual District Population Deviation: From -4.81% to 4.38%

Total Six Election District Combined Population Deviation: 9.19% (Less than ten per cent)

I. MANDATORY REDISTRICTING CRITERIA

1. Equal Representation (Maximum ten per cent (10%) population deviation legally allowed): The 2011 3/26/11 Redistricting Plan legally satisfies this mandatory redistricting criterion.

A. Equal population: The legally permissible total election districts 10.00% population deviation has been met as this plan has a total six (6) election district population deviation of 9.19%.

2. Compactness: This plan meets the compactness requirement. Due to the significant population loss of the present Henry and Wakefield Election District, population was shifted primarily from the Blackwater and Courthouse Election District primarily to these two (2) election districts.

3. Contiguity: All land areas are connected within any of the six (6) election districts.

4. Voting Rights Act, §§ 2 and 5: The higher minority percentage in the Wakefield Election District reduces overall retrogression. The Henry and Stony Creek Election Districts to increase either of these still minority-majority districts would result in a contiguity, compactness and community of interest points being negatively impacted without any significant increase in the minority-majority election district population base. The elected Board of Supervisors and School Board of Sussex County, Virginia, by election district, are presently:

Name:	Election District Waverly:	Race:
Board of Supervisor Member	Harris L. Parker	Black
School Board Member	Doris Hamlin	Black

Name:	Election District Wakefield:	Race:
Board of Supervisor Member	C. Eric Fly	White
School Board Member	Gloria Holloman	Black

Name:	Election District Blackwater	Race:
Board of Supervisor Member	Wayne M. Harrell	White
School Board Member	James A. Thorpe, Jr.	White

Name:	Election District Courthouse:	Race:
Board of Supervisor Member	T. Wayne Birdsong	White
School Board Member	M.E. Morris, Jr.	White

Name:	Election District Henry:	Race:
Board of Supervisor Member	Rufus E. Tyler, Jr.	Black
School Board Member	Lisa H. Winfield	Black

Name:	Election District Stony Creek:	Race:
Board of Supervisor Member	Charlie E. Caple, Jr.	Black
School Board Member	Phyllis M. Massenburg	Black

COUNTY-WIDE OFFICE HOLDERS

Name	Election District	Race
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County Wide

Commissioner of Revenue	Ellen Boone	Black
County Treasurer	Onnie Woodruff	White
Clerk of Circuit Court	Gary Williams	White
Commonwealth's Attorney	Lyndia Person Ramsey	Black
County Sheriff	Raymond Bell	Black

II. NON-MANDATORY REDISTRICTING POLICY CONSIDERATIONS

5. Political Subdivisions: Historical and legal precedent support Board of Supervisors decision to split Towns of Wakefield and Waverly among several county election districts. And equal population, in compliance with mandatory redistricting factors support political sun division of Wakefield and Waverly.

6. Communities of Interest: The 1991 and 2001 redistricting plan have established continuing historical and legal precedent, given the decreasing population level of the County as a whole, and the many census blocks with zero or minimal population, to comply with all redistricting factors encompass significant geographical areas.

7. Precincts: All presently existing precincts under the 2001 redistricting ordinance may be used under the 3/26/11 Redistricting Plan. Existing precinct lines were the basic building blocks for the 2011 3/26/11 Redistricting Plan adopted by the Board of Supervisors.

The total number of people of voting age shifted countywide is about 720, of whom 323 are African American. Less than 10% of the voting age population in the county is shifted into a new district or precinct. Little Mill would have the fewest persons of voting age – 325. Not counting single-precinct Waverly, Mars Hill and Stony Creek would have the most 18+ -- just under 900 for each.

8. Existing Districts; Incumbency: Incumbents are given the option to seek re-election in his present election district or any other election district. All incumbent school board members remaining in their present election district if all other mandatory redistricting requirements are met.

NOW, THEREFORE, BE IT RESOLVED that the Sussex County Board of Supervisors hereby certifies that it has adopted the 3/26/11 Redistricting Plan, as stated in this Resolution, as the redistricting plan for Sussex County, Virginia and the County Attorney is directed to do all that is necessary and lawful, including the inclusion of necessary exhibits, documents and other actions as deemed necessary or required by the U.S. Department of Justice regarding said submission.

BE IT FURTHER RESOLVED THAT, after having received additional citizens comments, either directly or otherwise, regarding the 3/26/11 Redistricting Plan, that a public hearing to enact and codify the same, absent any amendment, into law in Sussex County-subject to approval of this redistricting plan by the U.S. Department of Justice,

and that the U.S. Department of Justice shall be forthwith notified of the same by supplement, as necessary, lawful and appropriate, the County of Sussex's submission to the U.S. Department of Justice.

Voting aye: Supervisors Caple, Harrell, Parker, Tyler

Voting nay: Supervisors Birdsong, Fly

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR PARKER and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorizes the County Attorney to prepare the proposed 3/26/11 Redistricting Plan and forward to U. S. Department of Justice for review.

Voting aye: Supervisors Caple, Harrell, Parker, Tyler

Voting nay: Supervisors Birdsong, Fly

Item 3. Closed Session

ON MOTION SUPERVISOR TYLER, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors shall enter Closed Session to enter closed Session for the following: (1) Personnel Matters, discussion of the acceptance of staff's letter of resignation, applicable Code Section 2.2-3711(A)(1).

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler

Voting nay: none

Item 4. Return To Open Session

ON MOTION OF SUPERVISOR HARRELL, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors has convened a Closed Meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-3712 of the Code of Virginia requires a certification by Sussex County Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law.

NOW THEREFORE BE IT RESOLVED that the Sussex County Board of Supervisors hereby certifies that, to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies, and (ii) only such public business matters identified in the motion convening the Closed Meeting were heard, discussed or considered by the Sussex County Board of Supervisors.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler

Voting nay: none

ON MOTION OF SUPERVISOR BIRDSONG, seconded by SUPERVISOR FLY and carried: RESOLVED that the Sussex County Board of Supervisors authorizes Supervisor Fly to request a letter from the leadership of Mars Hill AME Zion church regarding the using or not using Mars Hill AME Zion church as a voting precinct.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler
Voting nay: none

Item 5. Adjournment

ON MOTION OF SUPERVISOR BIRDSONG, seconded by SUPERVISOR TYLER and carried: RESOLVED that the April 12, 2011 meeting of the Sussex County Board of Supervisors hereby adjourned.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler
Voting nay: none