



# COUNCILMANIC REDISTRICTING COMMISSION

## MAY 19, 2021

### 1. CALL TO ORDER

The first meeting of the Harford County Councilmanic Redistricting Commission was held in Council Chambers, 212 S. Bond Street, Bel Air, MD on May 19, 2021. It was called to order at 6:00 PM by acting Chairperson, Erik Robey. In attendance were the Redistricting Commission Members: Erik Robey, Jim Thornton, Mustafa Sidik, Wayne Goddard, and Christina Bracknell.

### 2. SELECTION OF CHAIR

Mr. Goddard made a motion for Erik Robey. Mr. Robey declined the nomination and made the motion for Mr. Sidik to be chairperson. Mr. Thornton seconded. There being 5 yes votes and 0 no votes; Mr. Mustafa Sidik was selected as the Chair of the Councilmanic Redistricting Commission.

### 3. WELCOME

Patrick Vincenti, County Council President, welcomed the Commission and thanked them for volunteering to take on the important responsibility. He advised it will not be an easy task.

### 4. PRESENTATIONS

#### a. Robert McCord, Maryland Secretary of Planning

He advised that the timeline has been shifted for the official census numbers to be released. It will be mid to late August before the State will receive the of data in legacy format. This format is usable by those with appropriate equipment. The information will have to be processed to make adjustments. Under Maryland law, all incarcerated individuals must be added back to their last known address before they were incarcerated. The Census Bureau will get the information out as quickly as they can. Then the Commission will have approximately four weeks to wait until the reallocation is done. He recommends that the Commission take the time they have before the actual census numbers come out to plan what they are able. The Commission can find mapping apps on the web and the Department of Planning and Zoning has yearly projections of data for each county. Mr. McCord urged the Commission to take notice if they are looking at apportionment numbers or population numbers. There are three different levels of data; the smallest being the census blocks, then block groups and the largest are the census tracks. The Commission will receive numbers at the census block level. He cautioned that assumed projections will have to be adjusted after the actual numbers come out. Mr. McCord said the State data will not include political data or the home location of any incumbents.

Mr. McCord said the congressional district formula is essentially the same that this Commission will use. The Commission should consider land features such as railroads and bodies of water. They should also consider communities of interest. He said the Commission is not bound by these as they are just guidelines. The presentation was opened for questions.

Mr. Robey asked what the variance of the projected and adjusted numbers have been historically. Mr. McCord said they should be close. If they are way off, the County must explain their numbers. Mr. McCord invited the Commission to email him at [Robert.mccord@maryland.gov](mailto:Robert.mccord@maryland.gov) if they have any questions as they work.

Mr. Goddard thought that the Commission cannot meaningfully take care of their charge until the actual data comes in in August. Mr. McCord said there might be things that have to be done prior that could be set up, like processes they plan to use. There were no other questions. Chairperson Sidik thanked Mr. McCord for his presentation.

**a. Ben Lloyd, Director of Administration, and member of 2011 Redistricting Commission**

Mr. Lloyd said Planning and Zoning will provide the Commission with mapping staff and that they are available for their use.

Mr. Lloyd went over the Commission's process from 10 years ago. He said they talked about guiding principles of what an ideal map would look like. They determined that an ideal map would consist of six districts with roughly the same population, with no more than a deviation of 10% (this was set in stone). Districts should be as compact as possible. They wanted the three municipalities in separate districts, and they did not want to divide any municipality into two districts, they wanted to keep each municipality intact. They felt precincts should stay together.

Mr. Lloyd said the Commission in 2011 thought that ideally there should be as few changes as possible from a voter's perspective. They felt the way District F used APG as a connection between Aberdeen and Havre de Grace was not ideal, but they recognized why it was done. The earlier Commission also recognized that the Board of Education would also be electing using these same districts, so they kept that in mind as they created. With these in position, the main guiding principle would be to keep communities of common interest together, such as school districts (especially high school locations); fire service areas, rec council districts; and community board advisory areas. It is inevitable that some of these would be split. The 2011 Commission decided not to look at zip code areas; they did not see value in it. They did not look at election results or voter registration data. Also, the residence of any current office holders was not taken into consideration. At that point, they developed a base map that the final maps would be based upon. The census data was then considered. They started with roughly nine alternative maps, some of which had submaps. They reduced that amount down to six maps and from there, they selected their top two maps. They recommended

one map to the Council with one alternative map. The presentation was opened for questions.

Mr. Thornton asked if the 2011 Commission had any outreach to the communities. Mr. Lloyd said the meetings were open to the public and they reached out to the administrator to make sure they were advertised. They did not have formal community meetings, but they often did have people attend the meetings.

Chairperson Sidik asked if any other efforts were made to get community input, such as social media. Mr. Lloyd said he does not know if they did. Chairperson Sidik said he thought community input was critical. Mr. Lloyd said both chairs of the Democratic Central Committee and Republican Central Committee praised their work. Chairperson Sidik asked how they used the data to get the alternative maps. Mr. Lloyd said it was very low tech. They used Excel spreadsheets with the population of each precincts. They did not color in maps until they knew the spreadsheet had the deviation they needed.

Chairperson Sidik thanked Mr. Lloyd for his presentation.

**b. Stephanie Taylor, Director, Harford County Board of Elections**

Ms. Taylor said her office is at the Commission's mercy. In 2011, it took them two months to get the new district information in a usable format for them. She stated it is tedious work and manually done. They must draw the precincts and adjust street files, etc. Her concern is that they will not have time to do the necessary work because it takes them 18 months to get ready for elections. If they get the Commission's information in February – which has been the case - it could cause a problem. She noted there is talk that the primaries will be pushed back, causing them further struggles. She said if new precincts are created, her office must create new polling places and they do not have enough equipment to handle larger numbers in precincts.

Other concerns Ms. Taylor has, are that once the Commission has completed their work, some candidates who have already filed might be in the wrong district. She said that could delay the ballot. She asked that when the Commission draws district lines, to please be careful where you place them. They have had situations where the line was drawn in the middle of a house and they had to go out to the house and see in which precinct the door is located. The last time they did redistricting, there was a lot of voter confusion. She understands that time is limited, but if the County Council could reduce the amount of time they take to approve the new maps, that would help. The presentation was opened for questions.

Mr. Goddard asked for a listing of the ghost precincts. Ms. Taylor said she would provide them. Mr. Goddard said the length of time they must work at crunch time is troubling to him.

Mr. Thornton said the Board of Elections funding is from County government and it is bothersome to him that it seems the Elections Board does not have enough money. He said the Council is in the process of budget approval. He asked if the Council advocated

for additional funds for the Board of Elections and, if so, have they heard back? Ms. Taylor said the last she heard is that the County Council wrote to the County Executive for additional funds for the Election Board.

Mr. Robey asked her how it works with the ballots if the State and County do not come in at the same time. Ms. Taylor said no matter what, it will interfere with the filing deadline. Chairperson Sidik thanked Ms. Taylor.

## 5. COMMISSION BUSINESS MEETING

Mr. Thornton observed that this time around the situation is different because the data is delayed. He said the Commission needs to determine how to do their job with the best possible results and least amount of effect on elections, etc. He feels the Commission needs to spend time discussing the uniqueness of this timeline. He questioned how much work the Commission wants to put into the preliminary data.

Mr. Goddard agreed with Mr. Thornton. Mr. Goddard believes that the Commission should eliminate the ghost precincts and there should be community input. He would like to hear from as many people as possible.

Mr. Robey said the Commission cannot move forward on this process without the data and in the last ten years, there have been a significant increase in the number of registered voters. He also believes it is imperative to have public hearings. Mr. Robey made a motion to have public hearings at the southern end and northern end of the County. Mr. Goddard seconded. The vote was unanimous to have community input.

Ms. Bracknell said she agrees that community input is needed and to reach out to municipalities to see what is working for voters or what changes need to happen.

Chairperson Sidik said it is important to teach the importance of what it is the Commission is doing to the community. He believes two public hearings should be a minimum.

Mr. Thornton asked how the Commission would execute the setting up of meetings; getting a staff member in Planning and Zoning; and does the Commission want something similar to the media campaign the census carried out. Chairperson Sidik said he would lean on the Council to figure out how to do this.

Mr. Kearney said he already reached out to the Planning and Zoning department and they are trying to identify a person to assist the Commission. Mr. Kearney said that the Council has recently met with Havre de Grace and has meetings with the other two municipalities. He also said the Council will provide the staff to organize future Redistricting Commission meetings and he will reach out to the Director of Governmental and Community Relations office for a contact list to get the word out. There is a tab on the Council's webpage for the Councilmanic Redistricting Commission. Mr. Kearney told the Commission that they are a public body, and everything must be public such as votes, the discussion, etc. He noted that both past commissions worked a little different from each other. He provided them with a Redistricting Considerations memorandum. The memorandum is attached to these minutes. This Commission will have to come up with a decision on how often they want to meet. The

Council Chambers should be available on Wednesday evenings right now, until in-person zoning hearings start back. It is likely that Tuesday evenings will become available during the summer. Chairperson Sidik asked how they could get access to the County's public media. Mr. Kearney said it can be requested.

Chairperson Sidik said this is a good opportunity for the Commission to introduce themselves:

**Jim Thornton** – Retired and involved in the community, chair of Harford County's Caucus of African American Leaders, NAACP, League of Women's Voters, involved in Democratic party.

**Wayne Goddard** – President of the Goddard Company; a lawyer actively practicing until June; part of the Bel Air Downtown Alliance, lives in Bel Air; a Havre de Grace Methodist church member.

**Erik Robey** – Director of Legislative and Community Affairs at the Harford County sheriff's office; previous Chief of Staff to the County Executive in Anne Arundel County; involved in Republican politics; serve on United Way Board and Harford Community Action Agency, and various Sheriff's boards.

**Christina Bracknell** – Native Marylander; lives in Havre de Grace, former teacher of government in Baltimore City; more recently involved in her children's activities and the PTA. She is involved in the Democratic party and a member of the Havre de Grace Independence Day Commission.

**Mustafa Sidik** – Currently works as a paramedic in Cecil County and teaches at Harford Community College; He wants to get more involved in politics.

Chairperson Sidik would like to schedule some future meeting dates. Each meeting should have a goal to be completed. The first goal should be how to get community input. He suggested June 2 at 6:00 PM. Everyone agreed.

Mr. Goddard said the educational component is important. He would like to hear from the chairs of the Democratic and Republican Central Committees to hear what they would like to see regarding the redistricting. He feels an invitation should sent sooner, rather than later. Mr. Goddard also believes that we need to educate people about their own district and share that there is a process that happens every ten years.

Mr. Robey agrees with Mr. Goddard. He looks at it as if we are looking at three different groups – Republicans, Democrats, and the leadership of municipalities.

Mr. Thornton said perhaps another group to consider are the women's groups/clubs; we may want to extend an invite to them to give them a voice. Mr. Goddard said yes and people of color groups, as well. Chairperson Sidik said yes, but we need to set definite goals. He thinks these meetings would need to happen after June. Mr. Goddard said he would like to have a report beforehand. Mr. Thornton said we do need to be clear on our goals, but with the stakeholders, we just want their opinions and should be listeners to their perspective.

Chairperson Sidik said absolutely. Mr. Goddard said he is interested in hearing whether there

are any physical barriers for voters or “off putting” voting sites, etc.

Chairperson Sidik wants the Commission’s opinion on whether they should target the faith-based facilities. Mr. Thornton said yes if they are open and receptive and can add value. Mr. Goddard said his concern is separation of Church and State. He thinks clergy would be reluctant to come and testify. Chairperson Sidik said he agrees about keeping politics out of the church, but he thinks they could add to the consensus. Mr. Robey said Churches would have the ability to attend the public hearings. Chairperson Sidik asked a person in the audience to speak. She said a lot of people do not understand how Commissions work and it should be explained in the meetings.

Ms. Bracknell agreed with that and asked how we could communicate with getting the word out. She suggested that the faith-based facility could get the information out.

Chairperson Sidik asked for a date to invite the chairpersons and municipality leaders to come in to speak. Mr. Goddard asked if he thought these people could come in by June 2. Mr. Robey said yes.

Mr. Robey asked Mr. Thornton if he could reach out to the Democratic chairperson and he would reach out to the Republican chairperson. The Chair of the Democratic Committee was present tonight said it is her goal to have a representative at every meeting.

Mr. Thornton made a motion to adjourn. Mr. Robey seconded.

## 6. ADJOURNMENT

The meeting was adjourned at 7:31 PM.

Approved \_\_\_\_\_



Chairperson



Date



## COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND

### MEMORANDUM

Date: May 19, 2021

To: Redistricting Commission  
Christina Bracknell  
Wayne Goddard  
Erik Robey  
Mustafa Sidek  
James Thornton

From: Charles E. Kearney, Jr.  
County Council Attorney

Re: Redistricting Considerations

---

The Harford County Charter in Section 205 provides the mechanical framework to establish the Redistricting Commission and the timetable for the redistricting process.

#### **Charter Section 205 Redistricting procedure.**

- (a) The boundaries of Council districts shall be established in 1974 and re-established in 1982 and every 10th year thereafter. Whenever district boundaries are to be established or reestablished, the Council shall appoint, not later than February 15 of the year prior to the year in which redistricting is to be effective, a commission on redistricting, composed of two members from each political party chosen from a list of five names submitted by the governing body of each political party which polled at least fifteen percent of the total vote cast for all candidates for the Council in the immediately preceding regular election or which had at least fifteen percent of the registered voters in the County on the date of that election. The Council shall appoint one additional member of the Commission, who shall not be a member of any of the political parties entitled to two members of the Commission and shall be a registered voter in Harford County. The Commission shall, at its first meeting, select

one of its members to serve as chair. No person shall be eligible for appointment to the Commission if that person holds any elected office.

(b) By October 1 of the year prior to the year in which redistricting is to be effective, the Commission shall prepare, publish, and make available a plan of Council districts and shall present that plan, together with a report explaining it, to the Council. The plan shall provide for Council districts that are compact, contiguous, and substantially equal in population. No less than fifteen calendar days and no more than thirty calendar days after receiving the plan of the Commission, the Council shall hold a public hearing on the plan. If within seventy calendar days following presentation of the Commission's plan no other law establishing or re-establishing the boundaries of the Council districts has been enacted, then the plan, as submitted, shall become law.

The Harford County Code contains the composition of each current council district.

**§ 4-5 Council districts.**

A. Harford County is hereby divided into 6 Council districts for the purposes of Article II of the Charter.

B. The Council districts are composed of the election precincts established by the Board of Supervisors of Elections, as the precincts exist on October 18, 2011, as follows:

**District A**

1-01	Edgewood	1-10	Abingdon
1-03	Edgewood	1-15	Constant friendship
1-04	Joppatowne	1-19	Willoughby
1-05	Edgewood	1-41	Magnolia
1-06	Edgewood	1-45	Joppatowne

**District B**

1-02	Joppa-Magnolia	3-03	Fallston
1-07	Winters Run	3-06	Fallston/ Gunpowder
1-08	Emmorton	3-07	Wilna
1-09	Singer	3-13	Bel Air
1-11	Box Hill	4-02	Upper Crossroads
1-21	Magness	4-05	Upper Crossroads

**District C**

1-14	Bel Air South	3-14	Bel Air
3-08	Rock Spring	3-15	Bel Air
3-09	Forest Lake	3-16	Bel Air
3-10	Town of Bel Air	3-17	Bel Air

3-11	Town of Bel Air	3-19	Bel Air
3-12	Town of Bel Air		

#### District D

2-02	Hopewell	4-04	Jarrettsville
3-04	Harkins	4-06	Jarrettsville
3-05	Forest Hill	5-01	Dublin
3-24	Frogtown	5-02	Stearns
4-01	Jarrettsville	5-03	Whiteford
4-03	Norrisville	5-04	Darlington

#### District E

2-01	Aberdeen	3-02	Churchville
2-04	Aberdeen	3-18	Bel Air
2-10	City of Aberdeen	3-21	Fountain Green
2-11	City of Aberdeen	3-22	Thomas Run
2-14	City of Aberdeen	3-23	Greenbrier
2-15	City of Aberdeen	6-05	City of Aberdeen

#### District F

1-12	Abingdon	2-19	Aberdeen Proving Grounds
1-13	Abingdon	6-01	Havre de Grace
1-16	Riverside	6-02	Meadowvale
1-17	Creswell	6-03	Havre de Grace
1-18	Bush	6-04	Havre de Grace
1-20	Belcamp	6-06	City of Havre de Grace
2-03	Perryman	6-07	Oakington

The map of the current council districts is attached.

The Charter does not provide any guidance regarding how the task of redistricting is to be accomplished. One appellate court has opined that redistricting is perhaps “the most difficult task a legislative body ever undertakes.” *Smith v. Beasley*, 946 F. Supp. 1174, 1207 (D.S.C. 1996). This is primarily due to the complex array of federal and state legal requirements which must be satisfied. This memo will briefly synthesize the legal considerations which will be your guidepost for the redistricting of Harford County’s council districts.

The legal criteria which govern redistricting are primarily founded in the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Federal Voter Rights Act, 42 U.S.C. 1971, et seq. and Article III of the Maryland Constitution.

### **SUBSTANTIALLY EQUAL POPULATION**

The United States Supreme Court in *Baker v. Carr*, 396 U.S. 186, (1962), and subsequent cases determined that the Fourteenth Amendment's Equal Protection Clause provides the legal underpinning for the "*one person, one vote*" principal which lies at the heart of the districting process. In essence, this principle prevents the States and their local jurisdictions from diluting any citizen's political power. This is accomplished by assuring that the vote of any citizen is approximately equal to the weight of that cast by any other citizen. See e.g., *In Re Legislative Districting*, 299 Md. 658 (1982).

The method used to accomplish this guarantee requires that representatives to an elected body are elected from voting districts of substantially equal population. Accordingly, a legislature shall make an honest and good faith effort to construct districts as nearly of equal population as is practicable, *Voinovich v. Quilter*, 507 U.S. 146 (1993); *Reynolds v. Sims*, 377 U.S. 533 (1964). The Equal Protection Clause requires that the seats in both houses of a bicameral State Legislature must be apportioned on a population basis. The *one person, one vote* principal has been extended to the election of county municipal officers and local governmental representatives when these governments exercise substantial governmental powers. *Avery v. Midland County*, 390 U.S. 474 (1968); *Dubois v. City of College Park*, 286 Md. 677 (1980); *Montgomery County v. Garrott*, 243 Md. 634 (1966). This directive includes the council districts of the Harford County Council.

In *Brown v. Thomson*, 462 U.S. 835 (1983), the Supreme Court stated that some deviation from population equality maybe necessary to permit the pursuit of other legitimate objectives such as maintaining the integrity of various political subdivisions and providing for compact districts of

contiguous territory. Therefore, a *minor* deviation from mathematical equality among the districts is insufficient to make a *prima facie* case of invidious discrimination under the Fourteenth Amendment so as to require justification by the jurisdiction for its proposed plan. Courts have generally recognized as a benchmark for determining whether a particular apportionment plan violates the *one person, one vote* principle, the 10% standard. As noted in *Brown v. Thomson*, *supra*, an apportionment plan with a maximum population deviation under 10% falls within a category termed "minor deviation". Any plan with larger disparities in population will, however, create a *prima facie* case of discrimination and therefore must be justified by the jurisdiction. The County, in this instance, would be required to justify the population disparity by showing a rational legitimate state/governmental policy for the redistricting plan. Moreover, it is likely that any defense of a plan with more than 10% overall deviation would be unsuccessful.

Maryland's Constitution also contains criteria for the drawing of a legislative district. In Article III, § 4 it is provided that:

*Each legislative district shall consist of adjoining territory, be compact in form, and of substantially equal population. Due regard shall be given to natural boundaries and the boundaries of political subdivisions.*

### **CONTIGUITY REQUIREMENT**

The requirement that the districts shall consist of adjoining territory is frequently referred to as the contiguity requirement. This requirement "mandates that there be no division between one part of a district's territory and the rest of the district; in other words, contiguous territory is territory touching, adjoining and connected, as distinguished from territories separated by other territories". *In Re Legislative Districting*, 299 Md. 658, 675-76 (1982). More simply stated, a contiguous district has been defined as one in which a person can go from any point within the district to any other point without

leaving the district.

### **COMPACTNESS**

The legislative district must also be compact in form. Black's Law Dictionary defines compact as being closely or firmly united or packaged or arranged so as to economize space. Compactness, however cannot be truly considered in geometric terms such as being circular or square shaped. It generally means closely united territorially in order to be conducive to constituent-representative communication. Moreover, as noted in *In Re Legislative Districting*, *supra*, the compactness requirement is subservient to the Federal Constitutional requirement of substantial equality of population among the districts. The requirement of population equality is the main constraint on the compactness provision of Section 4 of Article 3 of the Maryland Constitution. The Court cases recognize that, due to the combination of constitutional and other factors, some degree of noncompactness is unavoidable. These factors include concentration of population, convenience of access, geographic features, means of communication, contiguity requirements and due regard for natural and political boundaries. The requirements of contiguity and compactness are generally not a problem for council districts. Rather, these concepts are often at issue in Court challenges to congressional redistricting such as found in the partisan gerrymandering case of *Rucho v. Common Cause*, 139 S. Ct. 2484 (2019).

### **DUE REGARD**

The focus of the State Constitution's "due regard" requirement is the preservation of features "which enable voters to maintain an orientation to their own territorial areas." *In Re Legislative Districting*, 299 Md. at 681. The consideration of natural boundaries is self-evident and where applicable would include rivers and mountains. Any significant natural boundaries are basically non-existent in Harford County and therefore are not a concern in the redistricting of the County Council districts.

The requirement that due regard shall be given for the boundaries of political subdivisions is also

a consideration in the establishment of the councilmanic districts. Harford County contains three incorporated municipalities; i.e. Aberdeen, Bel Air, and Havre de Grace. Any redistricting plan must give consideration to these separate political subdivisions. The Court of Appeals in *Legislative Redistricting Cases*, 331 Md. 574 (1993), cautioned that . . . "the danger lurking in legislative districts which cross jurisdictional boundaries . . . is that representatives from those districts may face conflicting allegiances as to legislative initiatives which benefit one of their constituencies at the expense of the other". Id. at 615.

### **VOTING RIGHTS ACT OF 1965, AS AMENDED IN 1982**

Subsection 2(a) of the Voting Rights Act of 1965 (42 U.S.C.S. § 1973(a)), prohibits all states and political subdivisions from imposing any voting qualifications or prerequisites to voting, or any standards, practices, or procedures which result in the denial or abridgment of the right to vote of any citizen who is a member of a protected class of racial and language minorities. Subsection 2(b) establishes a violation when the "totality of circumstances" shows that the political processes leading to either a nomination or an election are not equally open to participation by members of a protected class.

To make out a §2 "effects" claim, a plaintiff must establish the three "Gingles factors." These are (1) a geographically compact minority population sufficient to constitute a majority in a single-member district, (2) political cohesion among the members of the minority group, and (3) bloc voting by the majority to defeat the minority's preferred candidate. *Thornburg v. Gingles*, 478 U. S. 30, 48-51, (1986). If a plaintiff makes that showing, it must then go on to prove that, under the totality of the circumstances, the district lines dilute the votes of the members of the minority group. The Equal Protection Clause prohibits the unjustified drawing of district lines based on race. *Cooper v. Harris*, 137 S. Ct. 1455, 1480, (2017).

## **POLITICAL GERRYMANDERING**

The Supreme Court, in *Rucho v. Common Cause*, 139 S. Ct. 2484 (2019), stated that ““vote dilution” in the one-person, one-vote cases refers to the idea that each vote must carry equal weight. In other words, each representative must be accountable to (approximately) the same number of constituents. That requirement does not extend to political parties. It does not mean that each party must be influential in proportion to its number of supporters.” at p. 2501. The Supreme Court then went on to hold that partisan gerrymandering claims present political questions beyond the reach of the federal courts. It is, however, a question which Congress and the various state legislatures can address should they find it appropriate. Also, although a claim can still likely be brought under state law, no such case has currently been filed. Accordingly, at this time, the holding in *Rucho* is the last word.

## **CONCLUSION**

The concepts identified above are the primary considerations when any districting plan is created. Nevertheless, both Federal and State Courts throughout the United States recognize that other considerations may, and sometimes do, enter into the creation of a legislative district plan. The Courts have approved, where appropriate, considerations of the maintenance of existing district and precinct lines, and the protection of incumbents. Where these concepts have not interfered with the "*one person, one vote*" principle then these considerations have been appropriate. Notwithstanding, these considerations are subservient to the U.S. Constitutional and Maryland Constitutional requirements identified above.

Should the Redistricting Commission have any additional questions regarding the law related to their task, please feel free to call upon me at your convenience.

