



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

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April 29, 2011

BY COURIER-SAME DAY DELIVERY

T. Christian Herren, Jr., Chief
Voting Section
Civil Rights Division
Room 7254 - NWB
Department of Justice
1800 G St., N.W.
Washington, DC 20006

Re: Submission Under Section 5 of the Voting Rights Act for Preclearance of Changes Affecting Voting in Fairfax County, Virginia, the Redistricting of its Governing Body;
Expedited Consideration Requested by May 31, 2011

Dear Mr. Herren:

Pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c, and Part 51 of Title 28 of the Code of Federal Regulations, on behalf of the Board of Supervisors of Fairfax County, Virginia ("Board"), I am submitting changes affecting voting for federal preclearance review and I am requesting that that this submission be given expedited consideration as explained below.

General Description of the Change Affecting Voting

In response to substantial and uneven population growth during the past decade, the Fairfax County Board of Supervisors ("Board"), which is the governing body of Fairfax County, has reapportioned its election districts effective April 26, 2011. Members of the County's school board are elected from those same districts. The reapportionment of those election districts is now submitted for federal preclearance as a change affecting voting.

Fairfax County operates under an optional form of government available under state law to any county with a population of more than 90,000. See Va. Code Ann. § 15.2-801 (2008). The County has operated under this form of government since January 1, 1968. From that date through December 31, 1991, the Board consisted of an elected at-large chairman and eight

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supervisors who were elected from single-member districts. In 1991, in response to a 37 percent population increase reflected by the 1990 decennial census, the governing body was reapportioned and expanded to include an additional single-member district. An election was held to fill the vacancy created by the new district, and the newly elected member took office on January 1, 1992. Since then, the governing body has consisted of nine members elected by district and an elected at-large chairman. In 2001, in response to a population increase of more than 18 percent shown by the 2000 decennial census, the governing body was reapportioned again. The 2001 reapportionment that serves as the benchmark against which this new plan will be compared was precleared by the Attorney General by letter dated August 14, 2001. A copy of that letter is provided as Exhibit No. 1.

Where members of the governing body are elected from districts, Virginia law requires the governing body to consider reapportionment after each federal decennial census and to reapportion the representation among the districts in order to give, as nearly as is practicable, representation on the basis of population. Va. Code Ann. §§ 15.2-856 (2008) and 24.2-304.1 (2006). In 2000, the County had a population of 969,749. In 2010, the Census counted a population of 1,081,726 – an increase of 11.5 percent. More important, the population increase was uneven. After the 2001 County reapportionment, the populations of the nine election districts ranged from a low of 102,504 persons (Lee) to a high of 112,218 persons (Mount Vernon), a total population deviation of 9.0 percent from the ideal sized district. The 2010 Census indicated that the populations of the nine election districts ranged from a low of 109,326 (Mason) to a high of 127,501 (Mount Vernon), which presents a total population deviation of 15.1 percent from the ideal sized district of 120,192 persons. This reapportionment responds to the uneven population growth by adjusting the boundaries of the existing election districts in order to provide proportional representation for County residents.

This reapportionment also affects the election districts of nine of the twelve members of the County School Board. Before 1995, all School Board members were appointed by the Board of Supervisors. In a November 1993 referendum, County voters elected to change the method of selecting School Board members from appointment to popular election pursuant to Va. Code Ann. § 22.1-57.3 (Supp. 2010). The first election for the School Board was held in November 1995, and the County's first elected School Board took office on January 1, 1996. State law provides that in any case in which school board members are elected from election districts, as opposed to being elected at large, the election districts for the school board shall be coterminous with the election districts for the local governing body. Va. Code Ann. § 22.1-57.3(B). The School Board consists of twelve members, nine of whom are elected by district and three of whom are elected at large. Accordingly, the reapportionment of the Board of Supervisors election districts constitutes the reapportionment of the School Board as well.

The Board of Supervisors adopted this reapportionment on April 26, 2011, following extensive public outreach, including a public hearing on April 12, 2011. Virginia law provides that

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decennial reapportionment plans are effective immediately. Va. Code Ann. § 24.2-311(B) (2006). Accordingly, all necessary actions have been taken, and this change is ready for federal review. The change has not been enforced pending federal preclearance.

I request that the Department of Justice consider this submission on an expedited basis as provided in 28 C.F.R. § 51.34 and respond by May 31, 2011. Good cause exists for expedited consideration because the Board's reapportionment activities were circumscribed by events outside the Board's control. Specifically, the Board could not prepare reapportionment plans until the U.S. Census Bureau released the official Census data that Virginia law requires the Board to use in redistricting. See Va. Code § 24.2-304.1(C). Nonetheless, the Board created an Advisory Citizens Committee on Reapportionment several months before the release of the Census data and began preparations to complete the reapportionment process as expeditiously as possible. The Advisory Committee met twice before the County received the Census data so that the Committee would be fully prepared to begin drawing plans as soon as the data was released and loaded into the County's redistricting software. The U.S. Census Bureau delivered Virginia's 2010 Census population totals on February 3, 2011. Thereafter, the Committee held five more meetings and one workshop, and many Committee members worked on plans via the Internet outside of meetings. On March 28, 2011, the Advisory Committee issued its 235-page Report, containing 25 different reapportionment alternatives, to the Board for its consideration. At its regular meeting the following day, the Board authorized staff to place a newspaper advertisement about the public hearing and the Board's intention to adopt an ordinance. In short, the Board acted as promptly as possible to complete the reapportionment process and make this submission, consistent with its obligation and desire to allow for robust public participation.

Having adopted the ordinance, the Board must now receive expedited preclearance in order to meet deadlines established by Virginia law. Because Virginia is covered by Section 5 of the Voting Rights Act and holds a November general election this year, Virginia's General Assembly adopted legislation adjusting and specifically establishing dates for election activities in 2011. See 2011 Va. Acts Ch. 3, which is provided as Exhibit No. 2. The legislation set August 23, 2011, as the date for primary elections. *Id.*, §2. Candidates must declare their candidacy for the primary not earlier than Tuesday, June 7, and not later than June 15, 2011. *Id.*, §4. Before declaring their intention to run for office, candidates should have certainty about the composition of the district and whether they reside in the district. Preclearance of the Board's redistricting by May 31, 2011, will provide that certainty.

Additionally, state law requires the County's electoral board to make absentee ballots available to qualified absentee voters on or before July 8, 2011. *Id.*, §7. However, ballots cannot be made available until the County's election officials have prepared proofs for review by the State Board of Elections, received approval from the State Board of Elections, had the ballots printed, and prepared them for mailing. The State Board of Elections will not approve the

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ballots until the Department of Justice has precleared the reapportionment. Preclearance of the Board's redistricting by May 31, 2011, will allow time for the County's election officials to prepare those absentee ballots.

Finally, the County anticipates that it may need to adjust precinct lines or establish new precincts to accommodate the new district boundaries for the Virginia House of Delegates and Senate. As of April 28, 2011, the Virginia General Assembly has not enacted plans to redistrict the House of Delegates and the Senate. However, the plans considered by the General Assembly to date all have split numerous Fairfax County precincts.

If precinct lines are not adjusted before the August 23 primary to eliminate split precincts, the County's election officials may have to offer different ballots within precincts. The Virginia State Board of Elections instructs localities that split precincts are to be avoided whenever possible. Therefore, if the County's precincts need to be adjusted, the County hopes to complete that process in June and submit another request to the Department of Justice for preclearance of those changes on an expedited request so that the changes can be implemented for the August 23 primary, including notification of voters whose polling places have changed.

By accommodating the County's schedule and expediting its review and decision on this preclearance request, the Department of Justice will enhance the redistricting and electoral process. Most importantly, expedited review will benefit voters, especially racial and language minorities whom the County made deliberate and repeated efforts to include in the redistricting process, and absentee military and overseas voters. Because the Board could not begin redrawing district lines until it received the official U.S. Census data, the only way the Board could have shortened the process to allow the full 60 days for preclearance would be to eliminate some or all of the public's participation in the process. Additionally, expedited preclearance will benefit candidates, who must know what districts they will be seeking to represent and whether they meet the residency requirement. Preclearance on an expedited basis also will benefit election officials, who must implement these changes and any future changes needed to adjust precinct boundaries, and who are charged with the responsibility of conducting orderly elections.

Required Submission Information

Pursuant to 28 C.F.R. § 51.27 (2010), I am providing this information:

- (a) Copies of the ordinance adopted by the Board to effect the reapportionment, in both redline and final form, are provided as Exhibit No. 3. Duplicate copies of a map illustrating the newly adopted election districts are provided as Exhibit No.

4. Demographic data for each of the nine election districts as constituted under the reapportionment ordinance is provided as Exhibit No. 5.

(b) A copy of the ordinance embodying the previous apportionment of the County's election districts is provided as Exhibit No. 6. Duplicate copies of a map illustrating the previous election districts are provided as Exhibit No. 7. Demographic data for each of the nine districts as constituted in the previous apportionment is provided as Exhibit No. 8.

(c) The change is shown on the maps provided as Exhibit Nos. 4 and 7 and the ordinances provided as Exhibit Nos. 3 and 6.

(d) The name, title, address, and telephone number of the submitting person is:

David P. Bobzien, County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 20035-0064

(703) 324-2421

(703) 324-3938 (FAX)

(e) The submitting authority is the Board, which is the elected governing body of Fairfax County, Virginia.

(f) This submission is from a county government in the Commonwealth of Virginia.

(g) The Board is responsible for apportioning its election districts. The mode of decision was by ordinance. See Exhibit No. 3.

(h) The authority for reapportionment by the Board is provided by Va. Const. art. VII, § 5, and Va. Code §§ 15.2-856 and 24.2-304.1. The Board of Supervisors adopted the change by ordinance in accordance with Virginia law at a public meeting. Virginia law provides that prior to enactment of a change in any local election district, notice must be published in a newspaper having general circulation in the election district once a week for two successive weeks. Va. Code Ann. § 24.2-306 (2006). That notice was published in a local newspaper with general circulation within the County on April 1 and 8, 2011. A copy of the notice, together with proof of publication, is provided as Exhibit No. 9. Moreover, a public hearing was held on April 12, 2011, at which members of the public were able to, and did, speak on the matter. Virginia law generally does not require a public hearing before adoption of an ordinance, but the Board customarily conducts such a hearing before adopting or amending any

ordinance. Copies of all Virginia Code provisions cited in this submission are provided as Exhibit No. 10.

- (i) The change was adopted on April 26, 2011.
- (j) Subject to federal preclearance, this change took effect on April 26, 2011. Virginia law provides that decennial reapportionment plans are effective immediately. Va. Code Ann. § 24.2-311(B). The reapportionment ordinance adopted by the Board provides that the ordinance “shall become effective upon adoption, and it shall be enforced after satisfactory completion of the federal preclearance procedure provided by Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c.”
- (k) The change has not yet been enforced and will not be enforced or administered pending notification that the Attorney General does not interpose an objection to this change.
- (l) This change will affect the entire County.
- (m) State law requires the governing body to consider reapportionment after each federal decennial census and to reapportion the representation among the districts in order to give, as nearly as is practicable, representation on the basis of population. See Va. Code Ann. §§ 24.2-304.1 and 15.2-856. In 2000, the County had a population of 969,749. In 2010, the Census counted a population of 1,081,726 – an increase of 11.5 percent. More important, the population increase was uneven. After the 2001 County reapportionment, the populations of the nine election districts ranged from a low of 102,504 persons (Lee) to a high of 112,218 persons (Mount Vernon), a total population deviation of 9.0 percent from the ideal sized district. The 2010 Census indicated that the populations of the nine election districts ranged from a low of 109,326 (Mason) to a high of 127,501 (Mount Vernon), which presents a total population deviation of 15.1 percent from the ideal sized district of 120,192 persons. This reapportionment responds to the uneven population growth by adjusting the boundaries of the existing election districts in order to provide proportional representation for County residents.
- (n) This change is not anticipated to have any effect on members of racial or language minority groups.
- (o) There is no past or pending litigation concerning this change or related voting practices.
- (p) The prior apportionment ordinance was adopted on June 11, 2001. It was precleared by the Attorney General by letter dated August 14, 2001. A copy of the Attorney General’s letter is provided as Exhibit No. 1. Subsequent changes

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affecting voting were given federal preclearance on May 14, 2003, May 6, 2004, May 31, 2005, June 5, 2006, May 21, 2007, November 9, 2007, May 5, 2008, March 3, 2009, April 22, 2010, and September 4, 2010.

- (q) Demographic data for the total and voting age population of the County before and after the change, by racial and language minority groups, is provided in Exhibit Nos. 5 and 8. Maps of the area affected, showing the prior and new boundaries, are provided as Exhibit Nos. 4 and 7.

Supplemental Submission Information

Pursuant to 28 C.F.R. § 51.28, I am providing the following information:

(a) *Demographic information.*

- (1) Total and voting age population for the affected area before and after the change, by race and language group, is provided in Exhibits Nos. 5 and 8. The total and voting age population for the affected area, by precinct, both before and after the change, is provided as Exhibit No. 11.
- (2) The number of registered voters for the County by voting precinct before and after the change, by race and language group, is not available. Virginia law directs that applications to register to vote shall be only on a form or forms prescribed by the State Board of Elections. Va. Code Ann. § 24.2-418 (Supp. 2010). Those forms do not collect data on the race or language of applicants. A Virginia Voter Registration Application is provided as Exhibit No. 12.
- (3) No population estimates were made in connection with the adoption of the change. As required by Virginia law, the Board relied exclusively on the 2010 Census population data released by the Bureau of the Census for redistricting pursuant to Public Law 94-171. See Va. Code Ann. § 24.2-304.1.
- (4) Demographic data being provided with this submission, as Exhibit No. 13, on magnetic media is based upon the Bureau of the Census Public Law 94-171 file unique block identity code of state, county, tract, and block. It is being provided in the format set forth in 28 C.F.R. § 51.28(a)(5).

(b) *Maps.*

- (1) Duplicate copies of maps that show the previous apportionment and the new reapportionment are provided as Exhibits Nos. 4 and 7.

- (2) Three precinct boundary changes were made as part of this reapportionment, because State law directs that each precinct shall be wholly contained within an election district used for the election of one or more members of the governing body or school board for the county or city. Va. Code Ann. § 24.2-307 (Supp. 2010). First, Woodlawn Precinct (627) was divided along Frye Road. Therefore, Frye Road is now the eastern boundary of Woodlawn Precinct, which remains in the Mount Vernon District. The area east of Frye Road is now a new precinct named Pinewood, and it is in the Lee District. The polling place for the Pinewood Precinct was established at the Mount Vernon Woods Elementary School. Second, the Willow Springs Precinct (851) was divided along Stringfellow Road to the north of Lee Highway. Stringfellow Road is now the western boundary of the Willow Springs Precinct and the eastern boundary of the Powell Precinct (926). The redrawn Willow Springs Precinct remains in the Springfield District, and the redrawn Powell Precinct remains in the Sully District. The polling places for these two precincts were not changed. Third, the Nottoway Precinct (729) was divided so that the portion of that precinct that lies within the Town of Vienna is now part of the Vienna No. 6 (218) precinct, which is in the Hunter Mill District. The remaining portion of the Nottoway Precinct stays in the Providence District. The polling places for these two precincts were not changed. Duplicate copies of maps that show the new boundaries of these six precincts, together with text descriptions of the precinct boundaries, are provided as Exhibit No. 14. Exhibit No. 14 also shows the location of the polling place for the new Pinewood Precinct.
- (3) Duplicate copies of maps that show the location of Asian, Black, and Hispanic resident populations are provided as Exhibit No. 15.
- (4) Except for the precincts divided by the newly constituted Mount Vernon, Lee, Springfield, Sully, Hunter Mill, and Providence Districts, all election districts follow precinct boundaries as they existed on April 1, 2011. The boundaries of the election districts established by this reapportionment were all divided along “clearly observable boundaries” as that term is defined by Virginia law. Va. Code Ann. § 24.2-305 (2006) mandates that election districts and precincts shall have clearly defined and “clearly observable boundaries,” which include (i) any named road or street; (ii) any road or highway which is a part of the federal, state primary, or state secondary road system; (iii) any river, stream, or drainage feature shown as a polygon boundary on the TIGER/line files of the United States Bureau of the Census; or (iv) any other natural or constructed or erected permanent physical feature which is shown on an official map issued by the Virginia Department of Transportation, on a United States Geological Survey

topographical map, or as a polygon boundary on the TIGER/line files of the United States Bureau of the Census.

- (5) This reapportionment establishes one new polling place. The polling place for the new Pinewood Precinct was established at the Mount Vernon Woods Elementary School. The location of the polling place is shown on Exhibit No. 14.
- (6) This reapportionment does not change any voter registration sites.

(c) *Annexations.*

This change is not an annexation.

(d) *Election returns.*

This reapportionment is not expected to affect the electoral influence of racial or language minority groups. However, returns from the 2007 November general election for the Board of Supervisors are provided as Exhibit No. 16. These returns were selected because 2007 was the most recent general election for the Board of Supervisors. One Black candidate ran for office during this election. Catherine M. Hudgins, a Black woman who is the incumbent Supervisor from the Hunter Mill District, successfully ran against three other candidates. Supervisor Hudgins has held that office since 1999, when she defeated the then-incumbent, Robert Dix, a White man. Exhibit 16 includes the name of each candidate, the position sought by each candidate, the number of votes each candidate received, by voting precinct, and the outcome of each contest. The race or language group of each candidate is unknown except for those candidates for whom I have specified such information, because Virginia does not collect information about the race or language group of candidates. Subsequent to that 2007 general election, two Board seats affected by this reapportionment were the subject of special elections. First, a special election was held in February 2009 for the Chairman of the Board, after the sitting Chairman was elected to Congress and resigned his Board Chairmanship. Sharon Bulova, who was then the Braddock District Supervisor, ran against three White men and was elected Chairman in that February 2009 special election. Thereafter, in March 2009, a special election was held to fill the Braddock District seat vacated by the newly-elected Chairman. John Cook, a White man, defeated Ilyrong Moon, a Korean-American man, by 89 votes out of 12,495 votes cast (6,292 vs. 6,203). Mr. Moon has served on Fairfax County's School Board as an elected at-large representative since 2003.

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(e) *Language usage.*

This change will not affect the use of the language of a language minority group in the electoral process.

(f) *Publicity and participation.*

In adopting the reapportionment plan, the Board took numerous steps to provide notice to the public and to encourage public participation. The Board discussed redistricting at several public meetings and held a public hearing. Advance notice of the public hearing and the Board's intention to adopt a redistricting ordinance was published twice. See Exhibit No. 9. The Board appointed a citizens advisory committee to develop reapportionment alternatives for the Board's consideration and posted on the County's website all the tools necessary for members of the public to create and submit reapportionment plans for the Board's consideration. The County's website included a page devoted to redistricting to keep residents up to date. The County repeatedly issued information to the press and the public via its daily newsfeed, "NewsWire," as well as newsletters, published meeting notices, and produced a video about the process that aired on the County's cable government access channel and streamed on the County's website.

The Board first addressed reapportionment on November 16, 2010, when it adopted a resolution that provided standards to guide the process that was to follow. Copies of the adopted resolution are provided in Exhibit No. 17 and a copy of the Board Agenda Item is provided as Exhibit No. 18. Board Agendas, along with the full "Board Agenda Items" which explain each entry in the agenda in detail, are typically posted on the County's website five days before each Board meeting and they remain posted indefinitely for public review.

At the same time, the Board created an Advisory Citizens Committee on Reapportionment, to which the Board appointed 21 members by early January 2011. The Advisory Committee was composed of one appointee from each of the nine election districts, two appointed at large, one each from the Democratic and Republican parties, two representing the African-American Community, two representing the Asian/Pacific Islander Community, one representing the Hispanic Community, one from the Chamber of Commerce, one from the Federation of Citizens Association, and one representing the League of Women Voters. A list of the members of the Advisory Committee and the constituency each member was appointed to represent is included in Exhibit No. 19.

The County provided a meeting room equipped and staffed to facilitate both individual and group decision-making: computer hardware; software loaded with maps showing all precincts and all relevant Census data, and current election districts. The Advisory Committee held

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seven meetings and one workshop starting January 18, 2011, and ending March 8, 2011. All Advisory Committee meetings were open to the public and were advertised in advance via the Public Meetings Calendar on the County's website and text announcements on the County's government access channel. Members of the public attended each meeting. A copy of the "sign-in" sheet is attached as Exhibit No. 20. Observers were invited but not required to sign in, and not all observers did so.

During the weeks the Advisory Committee was meeting, the County made available on its website all the tools and information necessary for members of the public to contact members of the Advisory Committee or to create and submit reapportionment plans of their own. In early February, the County set up a web page on the County's website to provide residents with information about the redistricting process. A screenshot of the homepage of the County's website, prominently displaying a banner linking to the redistricting webpage, is attached as Exhibit No. 21. On February 15, after the County received the Census data, the County posted the Census data and a mapping tool, along with instructions and guidelines so that County residents could create plans and submit them electronically for consideration by the Advisory Committee and the Board. Those materials are available at www.fairfaxcounty.gov/redistricting/submit-plans.htm and a screenshot of that portion of the County's redistricting webpage is attached as Exhibit No. 22. The County sent information to the media and public via NewsWire and other means to promote the fact that members of the public could submit plans for consideration by the Board. An example of dissemination of information to the public, an announcement sent via Twitter, is included as Exhibit No. 23.

While the Advisory Committee was meeting, the County's Communications Productions Division produced a video about reapportionment in general, and the work of the Advisory Committee in particular, to cablecast on the County's government access channel, Channel 16. All three cable television systems that are franchised to operate in the County cablecast Channel 16. Approximately 73 percent of County households subscribe to cable service. The video aired as a "County Magazine" segment on Channel 16 at least once daily during the month of April 2011 and it was simultaneously available through the County's website via live streaming over the Internet. A copy of the schedule showing when the piece aired is provided as Exhibit No. 24. The video was also available at any time on demand through the County's website during the month of April 2011. A DVD of the video and an Internet link to it, along with a transcript of the text of the video, are provided in Exhibit No. 25.

The Advisory Citizens Committee developed 22 different reapportionment alternatives for the Board's consideration. Members of the public submitted three different reapportionment plans. The Advisory Committee compiled all 25 plans into a Report of the Advisory Citizens Committee on the 2011 Reapportionment of the Board of Supervisors of Fairfax County, Virginia, which it submitted to the Board of Supervisors on March 28, 2011. The report is provided as Exhibit No. 26.

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Upon receiving the Committee's report, the Board, in public session, authorized County staff to publish notice of a public hearing on the reapportionment alternatives and any amendments the Board may deem appropriate, as well as notice of the Board's intention to adopt an ordinance. A copy of the Board Agenda Item is provided as Exhibit 27. Virginia law does not require the Board to hold a public hearing before adopting a reapportionment ordinance, but the Board customarily holds public hearings before adopting any ordinance. Virginia law requires publication of notice of the Board's intention to adopt an ordinance reapportioning its election districts, and notice that the ordinance is available in the office of the Clerk to the Board, once a week for two successive weeks. Va. Code Ann. § 24.2-306. A copy of the notice, together with proof of publication, is provided in Exhibit No. 9. The entire report was also posted on the County's redistricting webpage, and the web address was included in the published advertisement. The County also sent notice to the media and the public via NewsWire that these plans were available, promoted the public hearing on the homepage of the County website, and advertised the hearing in the March 29 Board of Supervisors Podcast. See Exhibit No. 28 for the NewsWire announcement and Exhibit 21 for a screenshot of the homepage.

The Board conducted its public hearing on April 12, 2011. A copy of the Board item for the public hearing is provided as Exhibit No. 29. Five County residents spoke at the hearing to share their views about the County's redistricting. County residents also submitted comments in writing to Board members via mail or e-mail. At the close of the public hearing, the Board stated its intention to consider the public comments and to adopt an ordinance at its next meeting on April 26. The County posted a video of the public hearing on YouTube and notified the public and the media via NewsWire.

On April 26, the Board considered and discussed the reapportionment alternatives proposed by the Advisory Committee and the public again, and adopted the ordinance that is provided as Exhibit No. 3 and illustrated by the maps and demographic data provided as Exhibit Nos. 4 and 5. Nine Board members voted in favor of the ordinance, no Board members voted in opposition to the ordinance, and one Board member, Catherine Hudgins, abstained. The adopted reapportionment plan is an amended version of the Advisory Committee's Plan 9A4.

In addition to the notices described above, all Board meetings, including the public hearings, were cablecast live to local viewers over Channel 16 and replayed once or twice later that same week. Thereafter, Board meetings are available as video on demand for six months. Moreover, the Board agendas were posted on the County's website four days before the meetings.

Finally, between November 2010 and April 2011, the County and individual Board members published numerous articles and news releases about the reapportionment. A number of news articles were published in area newspapers, including *The Washington Post*, *Connection*

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Newspapers, Fairfax Times, and Patch.com, a family of hyper-local news sites covering Fairfax County. Public interest groups and community groups picked up on the information about the County's redistricting and disseminated it further. A sample of publications by the County and by individual Board members is provided as Exhibit No. 30. A sample of articles that appeared in local publications and information published by other groups is provided in Exhibit No. 31.

(g) Availability of the submission.

- (1) The County has notified the public that the County planned to file this submission with the Department of Justice and advised the public that persons may submit comments on this submission for the consideration of the Attorney General. The notification was, and remains, posted on the County's website, and notice was sent to the public and the media on NewsWire. The notices also informed the public that complete copies of this submission would be available for public inspection during normal working hours at the Office of the Clerk to the Fairfax County Board of Supervisors and at the redistricting web page of the County's website at <http://www.fairfaxcounty.gov/news/2011/updates/board-adopts-redistricting-plan.htm> Copies of the notice and the County's webpage are provided as Exhibit No. 32. The approved plan is also posted on the County's website for public review.
- (2) As is stated in the notice, all demographic information that the County is providing as part of this submission on magnetic media pursuant to 28 C.F.R. § 51.28(a) will be available for copying by members of the public. Upon request, the County will make a hard copy of the data contained on the magnetic media so that the hard copy can be copied.

(h) Minority group contacts.

The County has prepared a list of minority group contacts who are or may be familiar with this reapportionment. The list shows the names, affiliations, and addresses of racial or language minority group contacts, and it is provided as Exhibit No. 33.

The first person listed, Catherine M. Hudgins, is a Supervisor who is elected from one of the electoral districts affected by this reapportionment. Supervisor Hudgins abstained from voting on the reapportionment ordinance; all other members of the Board voted in favor of the reapportionment. Supervisor Hudgins has been the Hunter Mill District Supervisor since 1999; she was reelected in 2004 and 2007 and is now serving her third term. The other persons on the list were members of the Advisory Committee.

Conclusion

The clear and necessary purpose of this reapportionment is to respond to substantial and uneven population growth by redrawing lines to provide proportional representation. The reapportionment plan has neither the purpose nor will it have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in Section 4(f)(2) of the Voting Rights Act. A comparison of the reapportionment plan and the benchmark plan shows that the change will not have any retrogressive effect on the position of racial minorities with respect to their effective exercise of the electoral franchise.

Asian residents comprise the largest minority group in the County with 17.5 percent of the total population. The 2010 U.S. Census data shows that the two supervisor districts with the largest Asian populations in the benchmark plan, Sully and Providence, remain the supervisor districts with the largest Asian populations in the 2011 adopted plan. The percent of population that is Asian increases slightly in each of these supervisor districts under the new plan. Sully District increases from 23.5 percent to 23.6 percent and Providence District increases from 23.0 percent to 23.1 percent.

Hispanic residents comprise the second-largest minority group in the County with 15.6 percent of the total population. The 2010 U.S. Census data shows that the two supervisor districts with the largest Hispanic populations in the benchmark plan, Mason and Lee, continue to have the largest Hispanic populations under the 2011 adopted plan. The Hispanic population of the Mason District under both the benchmark plan and the new plan is 29.3 percent. In the Lee District, the Hispanic population increased slightly, from 23.5 percent in the benchmark plan to 23.6 percent in the new plan.

Black and African American residents comprise the third-largest minority group in the County with 9.2 percent of the total population. The 2010 U.S. Census data shows that the two supervisor districts with the largest Black populations in the benchmark plan, Mount Vernon and Lee, remain the supervisor districts with the largest Black populations in the 2011 adopted plan. The 2010 U.S. Census data shows that the two districts with the largest Black populations under the benchmark plan are Lee (17.5 percent) and Mount Vernon (17.3 percent). Under the new plan, the Black population of Mount Vernon increased slightly, to 17.7 percent, while the Black population Lee is unchanged, at 17.5 percent.

In summary, a comparison of the benchmark plan and the newly-adopted plan, using 2010 Census population data released by the Bureau of the Census for redistricting pursuant to Public Law 94-171, shows that the new apportionment does not diminish the ability of any citizens, because of their race, color, or membership in a language minority group defined by the Voting Rights Act, to elect their preferred candidate of choice. Accordingly, the Board seeks a determination from the Attorney General that the ordinance adopted by the Board on

Letter to T. Christian Herren, Jr., Chief
Re: Submission Under Section 5 by Fairfax County, Virginia, the Redistricting of its
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April 26, 2011, does not have a discriminatory purpose and will not deny or abridge the right of any person to vote on account of race, color, or membership in a language minority group. If you need any further information, please feel free to contact me or Michael Long, Deputy County Attorney, or Erin Ward, Assistant County Attorney, at (703) 324-2421.

Sincerely,

A handwritten signature in black ink that reads "David P. Bobzien". The signature is written in a cursive style with a large, looped "B" and a long, sweeping underline.

David P. Bobzien
County Attorney

Enclosures

cc: Members, Board of Supervisors (w/o Exhibits)
Anthony H. Griffin, County Executive
Nancy Vehrs, Clerk to the Board of Supervisors
Carol Ann Coryell, Secretary, Fairfax County Electoral Board
Edgardo Cortés, General Registrar (w/o Exhibits)
Susan E. Mittereder, Legislative Liaison, Office of County Executive (w/o Exhibits)
Janet Polarek, Secretary of the Commonwealth (w/o Exhibits)
Don Palmer, Secretary, State Board of Elections (w/o Exhibits)
E. M. Miller, Jr., Director, Division of Legislative Services (w/o Exhibits)
Anne Murphy, Division Counsel, Fairfax County Public Schools (w/o Exhibits)