

## **BAY COUNTY APPORTIONMENT COMMISSION**

**MAY 25, 2001**

THE BAY COUNTY APPORTIONMENT COMMISSION MET ON FRIDAY, MAY 25, 2001, IN THE FOURTH FLOOR COMMISSION CHAMBERS OF THE BAY COUNTY BUILDING. THE MEETING WAS CALLED TO ORDER BY CHAIRMAN JOSEPH K. SHEERAN AT 2:05 P.M. WITH THE FOLLOWING MEMBERS AND GUESTS PRESENT.

ROLL CALL: PROSECUTING ATTORNEY JOSEPH K. SHEERAN, CHAIRMAN  
DEPUTY COUNTY CLERK CYNTHIA A. LUCZAK  
DEPUTY COUNTY TREASURER TAMMI PENN  
DEMOCRATIC PARTY CHAIRMAN TONY PAWELSKI  
REPUBLICAN PARTY CHAIRMAN MAX D. HOLMAN

EXCUSED: COUNTY CLERK LINDA L. TOBER, SECRETARY  
TREASURER JEANETTE E. NEITZEL

ALSO PRESENT: LORAIN A. URBANCIK, SECRETARY TO THE COUNTY CLERK  
MARTHA P. FITZHUGH, CORPORATION COUNSEL  
GARY STANLEY, PLANNING DEPARTMENT  
DAVE ENGELHARDT, PLANNING DEPARTMENT  
JOSEPH RIVET, 97<sup>TH</sup> DISTRICT STATE REPRESENTATIVE  
JEFF MAYES, BANGOR TOWNSHIP SUPERVISOR  
WILLIAM G. TACEY, HAMPTON TOWNSHIP SUPERVISOR  
W. DENNIS HAYES, CITY OF BAY CITY RESIDENT  
SHIRLEY NEWSHAM, CITY OF BAY CITY RESIDENT  
JUDY BRUNNER, CITY OF BAY CITY RESIDENT  
NEWS MEDIA

### **PUBLIC INPUT**

CHAIRMAN SHEERAN OFFERED TO ACCEPT COMMENTS OF MEMBERS OF THE PUBLIC WISHING TO ADDRESS THE BOARD WITH THEIR CONCERNS.

WILLIAM G. TACEY ADDRESSED THE BOARD AS SUPERVISOR OF HAMPTON TOWNSHIP AND AS CHAIRMAN OF THE BAY COUNTY TOWNSHIP OFFICERS' ASSOCIATION. HE STATED THAT HE HAD DISCUSSED REAPPORTIONMENT WITH ALL OF THE SUPERVISORS EXCEPT IN BEAVER TOWNSHIP. WITH THE EXCEPTION OF BEAVER TOWNSHIP, FRANKENLUST TOWNSHIP, AND PINCONNING TOWNSHIP, ALL OF THE SUPERVISORS SUPPORT A NINE-MEMBER BOARD OF COMMISSIONERS. FRANKENLUST AND PINCONNING INDICATED THEY WOULD LIKE TO REVIEW THE MAPS BEFORE THEY MADE A DECISION. MR. TACEY BELIEVED THAT THESE OPINIONS SHOULD BE TAKEN INTO CONSIDERATION BY THE COMMISSION.

W. DENNIS HAYES, CITY OF BAY CITY RESIDENT, IN SUPPORT OF PRESERVING A NINE-MEMBER COMMISSION, QUOTED THE SAYING, "IF IT ISN'T BROKEN, DON'T FIX IT." HE ALSO STATED THAT THE KEY WORD IS "ENFRANCHISEMENT," BELIEVING THAT, FOR THE PEOPLE TO BE REPRESENTED PROPORTIONATELY THE BEST WAY POSSIBLE, IT WOULD BE TO HAVE LESS PEOPLE REPRESENTED BY MORE COMMISSIONERS. IN OTHER WORDS, THE MORE REPRESENTATION THAT THEY HAVE, THE CLOSER THEY ARE TO THEIR REPRESENTATIVES. MR. HAYES SUGGESTED UP TO 15 COMMISSIONERS TO BETTER REPRESENT THE PEOPLE.

SHIRLEY NEWSHAM, CITY OF BAY CITY RESIDENT, SUPPORTED NO LESS THAN A 9-MEMBER BOARD FOR FAIR REPRESENTATION, PERHAPS EVEN AN 11-MEMBER BOARD.

JUDY BRUNNER, CITY OF BAY CITY RESIDENT, WAS IN FAVOR OF LEAVING IT AT A NINE-MEMBER BOARD. SHE WAS OPPOSED TO LESS THAN NINE, BUT COULD SUPPORT AN INCREASE TO 11 OR 15.

### **MINUTES**

DEPUTY COUNTY CLERK LUCZAK MOVED TO APPROVE THE APPORTIONMENT COMMISSION PROCEEDINGS AS PRESENTED FROM THE MEETING HELD MAY 16, 2001. IT WAS SUPPORTED BY MR. HOLMAN AND PASSED BY VOICE VOTE, 5 YEAS, 0 NAYS.

THE DEPUTY COUNTY CLERK DISTRIBUTED MINUTES FROM THE MAY 21, 2001, MEETING FOR MEMBERS TO REVIEW.

### **LEGAL OPINION**

CORPORATION COUNSEL MARTY FITZHUGH DISTRIBUTED A LEGAL OPINION SHE HAD RECEIVED BY FACSIMILE MACHINE THIS MORNING FROM MILLER CANFIELD IN REGARD TO THE QUESTION OF DEPUTIES SERVING IN THE PLACE OF ELECTED OFFICIALS ON THE APPORTIONMENT COMMISSION AND THE QUESTION OF WHAT QUALIFIES AS A STATE INSTITUTION. MS. FITZHUGH STATED THAT THERE IS AN ATTORNEY-CLIENT PRIVILEGE ATTACHED TO THIS OPINION AND SUGGESTED THAT IT COULD BE REVIEWED DURING CLOSED SESSION. SEVERAL MOMENTS PASSED WHILE COMMISSION MEMBERS REVIEWED THE OPINION.

CHAIRMAN SHEERAN STATED THAT HE DID NOT SEE THE NEED TO GO INTO CLOSED SESSION TO DISCUSS THE OPINION, AND COMMISSION MEMBERS AGREED. MR. HOLMAN MOVED TO RECEIVE THE LEGAL OPINION FROM MILLER CANFIELD DATED MAY 25, 2001. IT WAS SUPPORTED BY DEPUTY COUNTY CLERK LUCZAK AND PASSED BY VOICE VOTE, 5 YEAS, 0 NAYS.

CHAIRMAN SHEERAN STATED THAT THE OPINION WAS CLEAR THAT THE DEPUTY TREASURER AND THE DEPUTY COUNTY CLERK ARE AUTHORIZED TO SERVE ON THE

APPORTIONMENT COMMISSION. SINCE THERE WAS NO DISCUSSION FROM THE MEMBERS, THE CHAIRMAN NOTED THAT MEETINGS WOULD PROCEED WITH THE DEPUTIES PARTICIPATING.

THE CHAIRMAN STATED THAT THE SECOND QUESTION DOES NOT APPEAR TO BE CLEARLY ANSWERED. HE SUMMARIZED THAT THE OPINION DISCUSSES WHO HAS THE ABILITY TO REGISTER TO VOTE, BUT DOES NOT ADDRESS WHETHER THE BAY COUNTY JAIL IS CONSIDERED A STATE INSTITUTION OR A COUNTY INSTITUTION, WHEREAS A STATE PRISON IS CLEARLY A STATE INSTITUTION. IT WAS CLARIFIED THAT THE TOTAL NUMBER IN THE BAY COUNTY JAIL WAS 185 INMATES, BUT THAT WAS NOT BROKEN DOWN AS TO WHO WAS CONVICTED AND WHO WAS AWAITING TRIAL OR ARRAIGNMENT. THE CHAIRMAN MAINTAINED HIS OPINION THAT THE BAY COUNTY JAIL WAS NOT A STATE INSTITUTION. DISCUSSION FOLLOWED AS TO THE NUMBER OF PEOPLE THIS WOULD AFFECT AND FROM WHERE THEY WOULD BE SUBTRACTED FROM THE CENSUS NUMBERS. MR. PAWELSKI MOVED TO MAKE NO ADJUSTMENT TO THE CENSUS NUMBERS FOR THE INMATE POPULATION AT THE BAY COUNTY JAIL. IT WAS SECONDED BY MR. HOLMAN AND PASSED BY VOICE VOTE, 5 YEAS, 0 NAYS.

### **CORRESPONDENCE**

THE CHAIRMAN STATED THAT THE COMMISSION HAD RECEIVED A LETTER FROM COUNTY EXECUTIVE TOM HICKNER URGING THE COMMISSION NOT TO REDUCE THE NUMBER OF COMMISSIONERS FROM NINE TO SEVEN AND STATING THAT THE VARIANCE ALLOWED BY LAW WOULD ALLOW FOR RETENTION OF NINE DISTRICTS WITHOUT CAUSING ANY ELECTION OR ADMINISTRATION PROBLEMS. THE COMMISSION HAD ALSO RECEIVED A LETTER FROM BANGOR TOWNSHIP CLERK JANET SANTOS INDICATING THAT SHE WAS AWARE OF THE COMMISSION'S DESIRE NOT TO SPLIT VOTING PRECINCTS. WHILE SHE APPRECIATED THAT THOUGHTFULNESS, SHE REQUESTED THAT THE COMMISSION ENSURE THAT DISTRICTS ARE APPROPRIATELY CREATED AND THAT RESIDENTS ARE PROPERLY REPRESENTED. MS. SANTOS OFFERED HER ASSISTANCE, IN THE EVENT THAT ANY PRECINCT IN BANGOR TOWNSHIP WAS CAUSING DIFFICULTY, TO WORK WITH THE COMMISSION TO POTENTIALLY AMEND BANGOR TOWNSHIP'S PRECINCT BOUNDARIES, POINTING OUT THAT THE MICHIGAN ELECTION LAW REGULATES RESPONSIBILITY TO LOCAL CLERKS TO DIVIDE AND REEVALUATE PRECINCT LINES. MR. PAWELSKI MOVED TO RECEIVE THE LETTER FROM THE COUNTY EXECUTIVE AND THE LETTER FROM THE BANGOR TOWNSHIP CLERK. IT WAS SUPPORTED BY DEPUTY COUNTY CLERK LUCZAK AND PASSED BY VOICE VOTE, 5 YEAS, 0 NAYS.

### **COUNTY CLERK**

THE CHAIRMAN STATED THAT HE HAD SPOKEN WITH COUNTY CLERK LINDA TOBER EARLIER. SHE WAS INTENDING TO ATTEND TODAY'S MEETING, BUT SHE WAS OBVIOUSLY VERY ILL. SHE AGREED TO SEND HER DEPUTY IN HER PLACE, BUT WANTED COMMISSION MEMBERS TO KNOW THAT SHE WAS WORKING ON PLANS TO BE SUBMITTED.

**FUTURE MEETINGS**

THE CHAIRMAN HAD SCHEDULED FUTURE MEETING DATES OF WEDNESDAY, MAY 30, 2001; THURSDAY, MAY 31, 2001; AND FRIDAY, JUNE 1, 2001, ALL AT 2:00 P.M. IN THE FOURTH FLOOR COMMISSION CHAMBERS.

**PLAN SUBMITTED**

THE CHAIRMAN ANNOUNCED THAT ONE SEVEN-COMMISSIONER PLAN HAD BEEN SUBMITTED TODAY AT THE COUNTY CLERK'S OFFICE BY MAX HOLMAN. DEPUTY COUNTY CLERK LUCZAK MOVED TO RECEIVE THE PLAN SUBMITTED BY MAX HOLMAN. IT WAS SUPPORTED BY DEPUTY COUNTY TREASURER PENN AND PASSED BY VOICE VOTE, 5 YEAS, 0 NAYS.

THE DEPUTY COUNTY CLERK STATED THAT, SINCE IT HAD JUST BEEN RECEIVED TODAY, THE NUMBERS HAD NOT YET BEEN VERIFIED. THE CHAIRMAN NOTED THAT IT HAD BEEN LABELED AS "PLAN NO. 1" AND WAS FILED MAY 25, 2001, AT 11:20 A.M. MR. HOLMAN EXPLAINED THAT HE KEPT IN MIND THE "ONE PERSON, ONE VOTE" PRINCIPLE AND TRIED NOT TO SPLIT VOTING PRECINCTS. THIS SEVEN-MEMBER PLAN WORKS OUT QUITE WELL IN THAT REGARD WITH A 5.12% VARIANCE. IT ALSO HAS A FAIR REPRESENTATION OF CITIES, WITH THE CITY OF BAY CITY BEING SPLIT BETWEEN THREE DIFFERENT COMMISSIONERS. DISCUSSION FOLLOWED CONCERNING THE PLAN.

THE CHAIRMAN INTERRUPTED MR. HOLMAN WHEN HE BEGAN TO EXPLAIN THE IMPACT HIS MAP WOULD HAVE ON PARTY REPRESENTATION. THE CHAIRMAN EXPLAINED THAT POLITICAL PARTY REPRESENTATION WAS NOT TO BE CONSIDERED WHEN MAPPING OUT DISTRICTS.

MR. PAWELSKI STATED THAT HE HAD ALWAYS BEEN AGAINST A SEVEN-MEMBER BOARD OF COMMISSIONERS AND STILL WAS. THE CHAIRMAN SUGGESTED THAT THE COMMISSION NARROW IT DOWN TO TWO DIFFERENT PLANS TO PREPARE. DEPUTY COUNTY TREASURER PENN MOVED TO DRAW UP PLANS FOR A SEVEN-MEMBER BOARD OF COMMISSIONERS AND FOR A NINE-MEMBER BOARD OF COMMISSIONERS. IT WAS SUPPORTED BY DEPUTY COUNTY CLERK LUCZAK AND PASSED BY ROLL CALL VOTE:

4 YEAS: LUCZAK, PENN, HOLMAN, AND SHEERAN  
1 NAY: PAWELSKI

THERE WAS MORE DISCUSSION REGARDING PLAN NO. 1. THE CHAIRMAN BROUGHT UP THE FACT THAT MCLA 168.661 SPELLS OUT THAT THE SECOND YEAR FOLLOWING EACH FEDERAL CENSUS PRECINCTS SHALL BE DIVIDED PURSUANT TO THIS SUBSECTION. THE CHAIRMAN POINTED OUT, THEREFORE, THAT THE LAW CONTEMPLATES THAT THE APPORTIONMENT COMMISSION TAKE ACTION WITHOUT BEING HAMPERED BY PRECINCT LINES, AND THE LAW CALLS FOR LOCAL CLERKS TO ALIGN PRECINCTS ACCORDINGLY. THE

CHAIRMAN STATED THAT TOO MUCH EMPHASIS ON THE PRECINCT BOUNDARIES COULD RESULT IN UNNECESSARY SPLITS IN THE TOWNSHIP OR CITY BOUNDARIES AS WELL AS A HIGHER VARIANCE. MR. HOLMAN POINTED OUT THAT THE VARIANCE IN 1990 WAS OVER 7% AND SOME PRECINCTS WERE SPLIT BUT NOT ADJUSTED LATER AND THAT THE TOWNSHIPS CANNOT ALTER THEIR PRECINCT BOUNDARIES UNLESS THE POPULATION VARIES BY 11%. THE CHAIRMAN SUGGESTED THE COMMISSION KEEP IN MIND THE THEORY OF "ONE PERSON, ONE VOTE" AND ALSO SUGGESTED THAT THERE IS QUITE A VARIETY OF SIZES OF PRECINCTS FROM 519 TO 2,208 AND PERHAPS SOME OF THEM NEED TO BE ADJUSTED. HE QUOTED MORE OF THE LAW WHICH PROVIDES A MECHANISM FOR LOCAL CLERKS TO ADJUST THEIR PRECINCT BOUNDARIES.

DEPUTY COUNTY CLERK LUCZAK CLARIFIED THAT, UNDER A SEVEN-MEMBER PLAN, THE COUNTY COMMISSIONER WOULD BE REPRESENTING APPROXIMATELY 15, 737 PERSONS; UNDER THE NINE-MEMBER PLAN, REPRESENTATION WOULD BE APPROXIMATELY 12,240 PERSONS. THE CHAIRMAN ASKED THAT THE COUNTY CLERK HAVE PLAN NO. 1 VERIFIED FOR THE NEXT MEETING ON MAY 30, 2001. THE CHAIRMAN NOTED THAT THE DESCRIPTION WAS NOT BY METES AND BOUNDS, BUT APPEARED TO BE ADEQUATELY DESCRIBED IN TERMS OF PRECINCTS, AND THE NUMBERS SHOULD BE EASILY ASCERTAINABLE. MR. HOLMAN POINTED OUT THAT ALL OF EACH CITY WARD WAS IN THE SAME COMMISSION DISTRICT.

MR. PAWELSKI MOVED TO LIMIT THE PLANS PREPARED BY COMMISSION MEMBERS TO NINE-MEMBER PLANS. THE MOTION DIED FOR LACK OF SUPPORT.

MR. HOLMAN MOVED TO ADJOURN THE MEETING. IT WAS SUPPORTED BY DEPUTY COUNTY CLERK LUCZAK AND PASSED BY VOICE VOTE, 5 YEAS, 0 NAYS. THE MEETING CONCLUDED AT 2:50 P.M.

JOSEPH K. SHEERAN, PROSECUTOR  
CHAIRMAN

LINDA L. TOBER, COUNTY CLERK  
SECRETARY

JEANETTE E. NEITZEL, TREASURER  
MEMBER

TONY PAWELSKI  
DEMOCRATIC PARTY CHAIRMAN  
MEMBER

MAX D. HOLMAN  
REPUBLIC PARTY CHAIRMAN  
MEMBER