

## **BAY COUNTY APPORTIONMENT COMMISSION**

**MAY 16, 2001**

THE BAY COUNTY APPORTIONMENT COMMISSION MET ON WEDNESDAY, MAY 16, 2001, IN THE FOURTH FLOOR COMMISSION CHAMBERS OF THE BAY COUNTY BUILDING. THE MEETING WAS CALLED TO ORDER BY CHAIRMAN JOSEPH K. SHEERAN AT 3:15 P.M. WITH THE FOLLOWING MEMBERS AND GUESTS PRESENT.

ROLL CALL: PROSECUTING ATTORNEY JOSEPH K. SHEERAN, CHAIRMAN  
COUNTY CLERK LINDA L. TOBER, SECRETARY  
DEPUTY COUNTY TREASURER TAMMI PENN  
DEMOCRATIC PARTY CHAIRMAN TONY PAWELSKI  
REPUBLICAN PARTY CHAIRMAN MAX D. HOLMAN

EXCUSED: TREASURER JEANETTE E. NEITZEL

ALSO PRESENT: CYNTHIA A. LUCZAK, DEPUTY COUNTY CLERK  
MARTHA P. FITZHUGH, CORPORATION COUNSEL  
GARY STANLEY, PLANNING DEPARTMENT  
DAVE ENGELHARDT, PLANNING DEPARTMENT  
NEWS MEDIA

### **DEPUTY COUNTY TREASURER**

CHAIRMAN SHEERAN NOTED THAT THE COMMISSION HAD RECEIVED A LETTER FROM COUNTY TREASURER JEANETTE NEITZEL INDICATING THAT SHE WAS UNAVAILABLE FOR TODAY'S MEETING AND THAT HER DEPUTY TREASURER WOULD ATTEND. THE CHAIRMAN ASKED FOR AN OPINION FROM CORPORATION COUNSEL MARTHA FITZHUGH OF THE STATUTE APPLYING TO DEPUTIES SERVING ON THE COMMISSION. MS. FITZHUGH REPORTED THAT SHE HAD REVIEWED MCL 45.41 REGARDING THE APPOINTMENT OF DEPUTIES. THE STATUTE STATES THAT DEPUTIES MAY PERFORM ALL THE OFFICIAL ACTS WHICH THE OFFICER MAKING SUCH APPOINTMENT MIGHT LEGALLY DO. MS. FITZHUGH STATED THAT, BASED UPON THAT, MS. PENN'S PRESENCE AND PARTICIPATION IN TODAY'S MEETING WAS AUTHORIZED BY LAW.

### **MINUTES**

COUNTY CLERK TOBER MOVED TO APPROVE THE APPORTIONMENT COMMISSION PROCEEDINGS AS PRESENTED FROM THE MEETING HELD APRIL 6, 2001. IT WAS SUPPORTED BY MR. HOLMAN AND PASSED BY VOICE VOTE, 5 YEAS, 0 NAYS.

**PUBLIC INPUT**

CHAIRMAN SHEERAN OFFERED TO ACCEPT COMMENTS OF MEMBERS OF THE PUBLIC WISHING TO ADDRESS THE BOARD WITH THEIR CONCERNS. THERE WERE NO MEMBERS OF THE PUBLIC PRESENT.

**LEGAL COUNSEL**

CHAIRMAN SHEERAN CONTINUED THE DISCUSSION THAT HAD TAKEN PLACE AT THE APRIL MEETING REGARDING CORPORATION COUNSEL SERVING AS LEGAL COUNSEL FOR THE APPORTIONMENT COMMISSION. CORPORATION COUNSEL STATED THAT SHE WOULD BE AVAILABLE TO ANSWER QUESTIONS REGARDING THE MEETING PROCESS. SHE STATED THAT SHE WOULD NOT BE IN ATTENDANCE AT EVERY MEETING UNLESS REQUESTED BY THE COMMISSION. SHE NOTED THAT, IF THERE SHOULD BE A CHALLENGE, SHE WOULD RESEARCH THE APPOINTMENT OF AN ATTORNEY EXPERIENCED IN THAT AREA, AS SHE FREQUENTLY DOES IN COUNTY MATTERS REQUIRING SPECIALIZATION. MR. PAWELSKI COMMENTED THAT HE STILL FELT THAT IT WAS A CONFLICT OF INTEREST FOR MS. FITZHUGH, SINCE SHE ALSO WORKS FOR THE COUNTY COMMISSIONERS AND THE COUNTY EXECUTIVE. CHAIRMAN SHEERAN NOTED THAT IT APPEARED THE LAW STATES CORPORATION COUNSEL IS TO BE LEGAL COUNSEL FOR THE COMMISSION. MS. FITZHUGH RESPONDED THAT SHE REPRESENTS THE COUNTY IN ALL CIVIL MATTERS AND DOES, IN FACT, ADVISE THE COUNTY COMMISSION, AS WELL AS THE RETIREMENT BOARD, THE BUILDING AUTHORITY, AND VARIOUS OTHER COUNTY GROUPS. SHE NOTED THAT SHE WOULD BE GLAD TO PROVIDE INFORMATION AND CONSULTATION TO THIS COMMISSION IN THE SAME MANNER THAT SHE PROVIDES TO OTHERS.

**RULES OF PROCEDURE**

COUNTY CLERK TOBER HAD DISTRIBUTED A SET OF PROPOSED RULES OF PROCEDURE COMPILED FROM OTHER COUNTIES. CHAIRMAN SHEERAN READ EACH RULE AND ALLOWED DISCUSSION AS EACH RULE WAS READ.

RULE NO. 1 (QUORUM): DISCUSSION WAS HELD REGARDING HAVING A QUORUM, WITH A MAJORITY OF VOTES PRESENT TO TAKE ACTION. THE CHAIRMAN STATED THAT HE WOULD CHECK WITH MEMBERS REGARDING THEIR AVAILABILITY BEFORE SETTING FUTURE MEETINGS, NOTING THAT THE TREASURER IS ON VACATION FOR TEN DAYS.

COUNTY CLERK TOBER INQUIRED WHETHER ANY OTHER MEMBERS HAD BEEN WORKING WITH THE FIGURES. SHE STATED THAT SHE HAD BEEN WORKING WITH GIS TO PREPARE A MAP OF NINE COMMISSION DISTRICTS, WHICH WAS NOT YET COMPLETED.

RULE NO. 2 (POPULATION TOTAL): THE CHAIRMAN NOTED THAT THE EXCEPTION TO THAT WOULD BE THE JAIL POPULATION. THE CHAIRMAN REQUESTED THAT

CORPORATION COUNSEL REVIEW THAT MATTER FOR THE NEXT MEETING, AND SHE NOTED THAT SHE WOULD.

RULE NO. 3 (SUBMISSION OF PLAN BY MEMBERS ONLY): THE CHAIRMAN NOTED THAT THE TIME PERIOD HAD ALREADY PASSED DURING WHICH ONLY COMMISSION MEMBERS WERE ALLOWED TO SUBMIT PLANS, WHILE THE COMMISSION HAD BEEN WAITING FOR WORKABLE NUMBERS.

RULE NO. 4 (NO MORE THAN TWO PLANS PER MEMBER): FOLLOWING DISCUSSION, IT WAS AGREED BY ALL MEMBERS TO OMIT RULE NO. 4, THUS ELIMINATING THE RESTRICTION ON THE NUMBER OF PLANS SUBMITTED.

RULE NO. 5 (PLAN REQUIREMENTS): DISCUSSION WAS HELD REGARDING WHEN AND TO WHOM PLANS WOULD BE SUBMITTED. THE CHAIRMAN HAD ANTICIPATED THAT PLANS WOULD BE SUBMITTED AT THE MEETING AND THEN GIVEN TO THE COUNTY CLERK. MR. HOLMAN HAD ANTICIPATED THAT PLANS WOULD BE SUBMITTED TO THE CLERK FOR HER TO INSPECT AND THEN SHE WOULD GIVE THEM TO THE CHAIRMAN. THE COMMISSION DECIDED TO CHANGE THE TIME FRAME FROM 48 HOURS TO 72 HOURS FOR COPIES OF PLANS TO BE SENT TO EACH MEMBER. IN THE DISCUSSION REGARDING THE WORD DESCRIPTION OF THE PROPOSED DISTRICT, THE CHAIRMAN SUGGESTED USING A WORD DESCRIPTION THAT ADEQUATELY DESCRIBES THE OUTLINE OF THE DISTRICT, ALTHOUGH THAT MIGHT NOT FOLLOW ANY PRECINCT LINES. IT WAS CLARIFIED THAT A CITY OR TOWNSHIP CLERK CANNOT CHANGE COUNTY COMMISSION DISTRICTS, BUT THEY COULD CHANGE THEIR LOCAL PRECINCT BOUNDARIES. SOME DISCUSSION FOLLOWED ABOUT THE DIFFICULTIES AT ELECTION TIME WHEN LOCAL PRECINCTS ARE SPLIT BETWEEN COUNTY COMMISSION DISTRICTS.

### **CITY OF BAY CITY CLERK**

MR. HOLMAN AND THE COUNTY CLERK HAVE BOTH HAD DISCUSSIONS WITH CITY CLERK DANA MUSCOTT, WHO HAS INDICATED THAT THE CITY APPORTIONMENT WILL BE COMPLETED AFTER THE COUNTY APPORTIONMENT IS FINISHED. MR. HOLMAN STATED THAT THE CITY CHARTER IS UNCLEAR IN REGARD TO THE CITY CLERK'S DUTIES DURING APPORTIONMENT, AND STATE LAW DOES NOT DIRECTLY ADDRESS CITIES EITHER. MR. PAWELSKI MOVED TO SEND A LETTER TO CITY OF BAY CITY CLERK DANA MUSCOTT INVITING HER TO ATTEND THIS COMMISSION'S NEXT MEETING. IT WAS SUPPORTED BY MR. HOLMAN AND PASSED BY VOICE VOTE, 5 YEAS, 0 NAYS.

### **RULES OF PROCEDURE (CONTINUED)**

RULE NO. 6 (CENSUS INFORMATION): THE CHAIRMAN STATED THAT THE 14 DAYS HAD ALREADY PASSED AND THE COUNTY CLERK HAD DISTRIBUTED CENSUS INFORMATION TO THE MEMBERS; HOWEVER, MUCH INFORMATION IS AVAILABLE ON THE INTERNET AND THROUGH COMPUTER PROGRAMS. HE REQUESTED AN UPDATE OF PROGRESS OF WORK

DONE BY GIS AND THE PLANNING DEPARTMENT IN LOADING INFORMATION ONTO THE COMPUTER. DAVE ENGELHARDT REPORTED THAT GIS HAS POPULATION STATISTICS AT THE BLOCK LEVEL WHICH WILL BE USEFUL TO THE COMMISSION. BEYOND THAT, MR. ENGELHARDT NEEDED MORE INFORMATION IN REGARD TO DATA THE COMMISSION IS INTERESTED IN TRACKING. HE WAS LOOKING AT THE CENSUS DATA FIELDS TO SEE IF THEY CORRELATE WITH WHAT THE COMMISSION REFERS TO AS COMMISSIONER DISTRICTS, VOTING DISTRICTS, WARDS, OR PRECINCTS, AND WAS HAVING SOME DIFFICULTY TRANSLATING.

MR. HOLMAN COMMENTED THAT, IF THE COMMISSION WAS NOT GOING TO FOLLOW EXISTING PRECINCTS AND WARDS, THEN BLOCK DATA WOULD BE NECESSARY. HE ALSO NOTED THAT THE BLOCK DATA MAP PREPARED FOR THE CITY SEEMED VERY USEFUL. MR. ENGELHARDT THOUGHT THE MAP HAD BEEN PREPARED BY JOHN GATOS OF THE CITY'S ENGINEERING DEPARTMENT. THE CHAIRMAN HAD TWO CONCERNS. ONE WAS THAT EVERY MEMBER OF THE COMMISSION HAVE ACCESS TO NECESSARY DATA; THE OTHER WAS THAT THE PUBLIC HAVE ACCESS TO THAT DATA. THERE IS A LOT OF INFORMATION ON THE MICHIGAN INFORMATION CENTER COMPUTER DISK, BUT MR. ENGELHARDT WAS NOT CERTAIN WHETHER THAT COULD BE PRINTED ON PAPER FOR PUBLIC VIEWING. GARY STANLEY REPORTED THAT PRINTING THE BLOCK DATA WOULD TAKE A LONG TIME; HE ESTIMATED ONE WEEK. COMMISSION MEMBERS AGREED THAT MAPS SHOWING PRECINCT POPULATIONS WOULD BE APPROPRIATE. MR. ENGLEHARDT FURTHER SUGGESTED THAT THE MICHIGAN INFORMATION CENTER COMPUTER DISK COULD BE REPRODUCED. CORPORATION COUNSEL SUGGESTED THAT THE DISK COULD BE REPRODUCED THROUGH A FREEDOM OF INFORMATION ACT (FOIA) REQUEST OR AT A STANDARD PRICE WITH 10 OR 15 AVAILABLE FOR PURCHASE AT THE COUNTY CLERK'S OFFICE. THE CHAIRMAN WAS NOT IN FAVOR OF DELAYING AVAILABILITY OF THE INFORMATION BY REQUIRING A FOIA REQUEST.

MR. PAWELSKI MOVED TO OFFER A PRECINCT MAP OF POPULATION NUMBERS AVAILABLE FOR INSPECTION AT THE COUNTY CLERK'S OFFICE AND COPIES OF THE MICHIGAN INFORMATION CENTER COMPUTER DISK FOR PURCHASE AT A PRICE TO BE DETERMINED BY THE COUNTY CLERK. IT WAS SUPPORTED BY MS. PENN AND PASSED BY VOICE VOTE, 5 YEAS, 0 NAYS.

RULE 7 (PLANS RECEIVED BY COUNTY CLERK): THE DEADLINE TO COMPLETE APPORTIONMENT IS SUNDAY, JUNE 10, 2001, WHICH AUTOMATICALLY CONVERTS TO MONDAY, JUNE 11, 2001. COMMISSION MEMBERS AGREED THAT ALL PLANS SHOULD BE SUBMITTED BY JUNE 1, 2001.

RULE 8 (AMENDMENTS): CORPORATION COUNSEL SUGGESTED THAT THE SENTENCE TO NOT ALLOW AMENDMENTS THAT CREATE A NEW PLAN WAS VAGUE. THE CHAIRMAN STATED THAT THE COMMISSION COULD DECIDE THE ISSUE IF IT SHOULD COME UP.

RULE 9 (ERRORS): THE COMMISSION AGREED TO CHANGE THE TIME FRAME FROM 48 HOURS TO 72 HOURS TO NOTIFY COMMISSIONERS OF ERRORS IN A PLAN.

RULE 10 (AMENDMENTS RECEIVED BY COUNTY CLERK): COMMISSION MEMBERS AGREED THAT ALL AMENDMENTS SHOULD BE SUBMITTED BY JUNE 1, 2001.

RULE 11 (AMENDMENTS REQUIREMENTS): ACCEPTABLE AS PRESENTED.

RULE 12 (VERIFICATION/APPROVAL): ACCEPTABLE AS PRESENTED.

RULE 13 (MEETINGS): ACCEPTABLE AS PRESENTED.

RULE 14 (OPEN MEETINGS ACT): ACCEPTABLE AS PRESENTED.

CORPORATION COUNSEL SUGGESTED INCORPORATING ROBERT'S RULES OF ORDER. THE CHAIRMAN POINTED OUT THAT ROBERT'S RULES WOULD GOVERN THE MEETINGS THEMSELVES, WHEREAS THE RULES OF PROCEDURE WOULD GOVERN SUBMISSION AND REVIEW OF PROPOSED PLANS.

MR. HOLMAN MOVED TO APPROVE THE RULES OF PROCEDURE AS AMENDED. IT WAS SUPPORTED BY MR. PAWELSKI AND PASSED BY VOICE VOTE, 5 YEAS, 0 NAYS.

### **REVIEW OF STATISTICAL INFORMATION ON THE CENSUS**

THE CHAIRMAN NOTED THAT THE COMMISSION HAD ALREADY DECIDED WHAT INFORMATION TO MAKE AVAILABLE TO THE PUBLIC. THE COUNTY CLERK HAD SENT A LIST OF NUMBERS BY PRECINCTS TO ALL MEMBERS. SHE CLARIFIED THAT MONITOR TOWNSHIP, PRECINCT 1, HAD BEEN DIVIDED INTO MONITOR TOWNSHIP, PRECINCT 1, WITH A POPULATION TOTAL OF 1,495, AND MONITOR TOWNSHIP, PRECINCT 6, WITH A POPULATION TOTAL OF 1,248.

MR. ENGELHARDT HAD QUESTIONS IN REGARD TO THE JAIL POPULATION. THE COUNTY CLERK CONFIRMED THAT THE JAIL POPULATION NUMBER NEEDS TO BE SUBTRACTED FROM THE TOTAL COUNTY POPULATION, WHICH WAS 185 INMATES ON APRIL 1, 2000. MR. ENGELHARDT QUESTIONED WHICH PRECINCT THAT NUMBER SHOULD BE SUBTRACTED FROM. CORPORATION COUNSEL SUGGESTED THAT THE APPLICABLE STATUTE WOULD BE MCL 46.404(g), WHICH STATES THAT RESIDENTS OF STATE INSTITUTIONS WHO CANNOT REGISTER TO VOTE SHALL BE EXCLUDED FROM ANY CONSIDERATION OF REPRESENTATION. MS. FITZHUGH WONDERED WHETHER OTHER STATE INSTITUTIONS WOULD FALL UNDER THIS STATUTE. THE COUNTY CLERK WAS ONLY AWARE OF THE JAIL. MR. HOLMAN WONDERED WHETHER THAT WOULD INCLUDE THE JUVENILE HOME, BUT THE COUNTY CLERK DID NOT BELIEVE ANYONE OVER 18 WAS LODGED IN THE JUVENILE HOME. MS. TOBER ALSO POINTED OUT THAT INMATES AWAITING ARRAIGNMENT OR TRIAL ARE STILL ALLOWED TO VOTE, WHILE THOSE

CONVICTED OF A CRIME ARE NOT. THE CHAIRMAN SUGGESTED CORPORATION COUNSEL ALSO REVIEW WHETHER THE JAIL IS CONSIDERED A STATE INSTITUTION OR A COUNTY INSTITUTION.

### **NUMBER OF COMMISSIONERS**

THE CHAIRMAN SUGGESTED THAT IT WOULD BE EASIEST TO DECIDE THE NUMBER OF COMMISSIONERS BEFORE WORKING ON THE MAPS. THE COUNTY CLERK VOICED HER MAJOR CONCERN OVER THE VOTING PRECINCTS. SHE POINTED OUT THAT NOT SPLITTING DISTRICTS WOULD SAVE THE COUNTY MANY DOLLARS AT ELECTION TIMES AND WOULD MAKE VOTING EASIER FOR THE VOTERS. SHE ALSO STATED THAT SHE WOULD BE IN FAVOR OF EITHER NINE OR SEVEN COMMISSIONERS IF THAT WOULD KEEP VOTING DISTRICTS WHOLE. THE CHAIRMAN STATED THAT THE OVERRIDING PRINCIPLE IS "ONE PERSON, ONE VOTE," WITH REASONABLE COMMISSION DISTRICT BOUNDARY LINES. MS. TOBER STATED THAT THE ALLOWABLE VARIANCE IS 11% TOTAL, INCLUDING PLUS AND MINUS, AND THAT THE VARIANCE IN 1990 WAS 7.4% FOR A NINE-MEMBER PLAN. THE COUNTY CLERK HAD RECEIVED NO INFORMATION FROM THE STATE THAT THE VARIANCE NUMBER HAD CHANGED.

MR. PAWELSKI STATED THAT HE WOULD LIKE TO WORK WITH THE MAPS BEFORE HE DECIDES HOW MANY COMMISSIONERS, BUT FELT THAT THE POPULATION HAD NOT CHANGED MUCH AND, THEREFORE, LEAVING IT AT NINE COMMISSIONERS WOULD BE FINE. THE COUNTY CLERK POINTED OUT THAT THERE ARE A FEW AREAS WHERE THE POPULATION GREW CONSIDERABLY, SUCH AS MONITOR TOWNSHIP AND THE 1<sup>ST</sup> COUNTY COMMISSION DISTRICT, AND A FEW AREAS WHERE THE POPULATION DECREASED. MR. HOLMAN NOTED THAT HE COULD SEE A GOOD SEVEN-MEMBER PLAN; HE COULD ALSO SEE A NINE-MEMBER PLAN, BUT THAT WOULD PROBABLY INVOLVE SPLIT DISTRICTS.

MR. HOLMAN STATED HIS OPINION THAT THIS SECOND MEETING WAS A BIT LATE. HE NOTED THAT DECIDING ON THE NUMBER OF COMMISSIONERS AHEAD OF TIME WOULD BE HELPFUL FOR COMMISSION MEMBERS TO GET A GOOD PERSPECTIVE ON WHAT ONE PLAN DOES VERSUS ANOTHER AND THE BENEFITS THEREOF. MS. PENN SUGGESTED THAT THE COMMISSION DECIDE ON TWO DIFFERENT NUMBERS OF COMMISSIONERS SO THAT PLANS SUBMITTED BY COMMISSION MEMBERS WOULD THEN BE LIMITED. OTHER MEMBERS WERE NOT IN FAVOR OF THAT IDEA. THE COUNTY CLERK NOTED THAT PLANS COULD BE SUBMITTED FOR ANY ODD NUMBER OF COMMISSIONERS FROM 5 TO 21.

CHAIRMAN SHEERAN NOTED THAT THERE HAD BEEN A MEETING SCHEDULED EARLIER, BUT IT WAS CANCELLED WHILE THE COMMISSION WAITED FOR WORKABLE NUMBERS. THE CHAIRMAN SUGGESTED SCHEDULING ANOTHER MEETING AND MEMBERS CAN THINK ABOUT HOW MANY COMMISSIONERS THEY WOULD CONSIDER AND WORK ON THE MAPS. HE SUGGESTED THAT THERE ARE A LOT OF OTHER CONSIDERATIONS BESIDES THE PRECINCT MAPS THAT DECIDE HOW MANY COMMISSIONERS ARE APPROPRIATE. HE

NOTED THAT HE WAS FAVORING NINE COMMISSIONERS ALSO, SINCE THE TOTAL POPULATION HAS NOT CHANGED SIGNIFICANTLY. THE COUNTY CLERK AGAIN POINTED OUT THAT CERTAIN AREAS HAVE INCREASED AND OTHERS DECREASED, WHICH MIGHT LEAVE MANY VOTING PRECINCTS SPLIT UNDER A NINE-MEMBER PLAN.

THE COUNTY CLERK STATED THAT SHE WOULD GET MAPS AND NUMBERS FOR ALL COMMISSION MEMBERS FROM DAVE ENGELHARDT.

**NEXT MEETING**

MEMBERS AGREED TO MEET AGAIN MONDAY, MAY 21, 2001, AT 3:00 P.M.

IT WAS AGREED THAT DECIDING ON THE NUMBER OF COMMISSION DISTRICTS TO CONSIDER WOULD BE HELPFUL BEFORE WORKING ON MAPS.

**LETTER FROM TREASURER**

COUNTY CLERK TOBER MOVED TO RECEIVE THE LETTER DATED MAY 14, 2001, FROM TREASURER JEANETTE NEITZEL STATING THAT SHE COULD NOT ATTEND THIS MEETING. IT WAS SUPPORTED BY MR. PAWELSKI AND PASSED BY VOICE VOTE, 5 YEAS, 0 NAYS.

**RECESS/ADJOURNMENT**

COUNTY CLERK TOBER MOVED TO ADJOURN THE MEETING. IT WAS SUPPORTED BY MR. PAWELSKI AND PASSED BY VOICE VOTE, 5 YEAS, 0 NAYS. THE MEETING CONCLUDED AT 4:10 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