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HOUSE OF DELEGATES
PRIVILEGES AND ELECTIONS COMMITTEE MEETING
WITH PUBLIC COMMENT

General Assembly Building
House Room D
Richmond, Virginia

March 25, 2011
1:00 p.m.

CAPITOL REPORTING, INC.
P.O. Box 959
Mechanicsville, Virginia 23111
Tel. No. (804) 788-4917

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- 1 APPEARANCES:
2
3 COMMITTEE MEMBERS:
4 Mark L. Cole - Chairman
5 John A. Cosgrove
6 Robert B. Bell
7 Johnny S. Joannou
8 S. Chris Jones
9 A.T. Howell
10 J. H. Miller
11 Riley E. Ingram
12 Clarence E. Phillips
13 Lacey E. Putney
14 J.M. Scott
15 Kenneth C. Alexander
16 Mark D. Sickles
17 Rosalyn R. Dance
18 Lionell Spruill, Sr.
19 David B. Albo
20 John M. O'Bannon, III, M.D.
21 R. Steven Landes
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S P E A K E R S:

Lisa Guthrie	26
Claire Guthrie-Gastanga	30

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DELEGATE COLE: The meeting will come to order.

All right, today the purpose of this committee hearing is to consider committee resolutions regarding the criteria that will be used for drawing the lines for redistricting for the House districts or the House of Delegates districts, and let me just kind of explain the process, because the way it works is these are committee resolutions, they are not House resolutions, so the final, the passage today will be final passage, and this will be the committee's guidance basically on how to draw the lines for the House districts, whatever resolution we adopt today and its provisions. And again the purpose of this is to have a public hearing on the resolutions and then debate and discuss it and have a final passage. That way the criteria will be done before we actually have any potential legislation of redrawn district lines completed.

All right, so I have 2 proposed resolutions here today, and the way I'd like to do this is have each of the patrons of the resolution present their resolutions and then, you know, give the details as to what it is, and then it will be up to the

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1 committee to decide which resolution we'll adopt.

2 Delegate Sickles, are you ready to
3 present your resolution?

4 DELEGATE SICKLES: I can if that's your
5 wish.

6 Thank you, Mr. Chairman, members of the
7 committee and members of the public.

8 If you have a copy of these resolutions
9 they do have a lot of similarity to them. The best way
10 to talk about mine, since it's pretty straightforward
11 on its face, is just to read part of it. I think the
12 major difference would be in the section that, in the
13 alternative, it's Section 1 of population equality, and
14 under my resolution it would be A2, and that is the
15 percent of discrepancy against the ideal district which
16 is 80,010 people. In my resolution it would be, the
17 ideal district could not vary more than plus or minus
18 2 percent, so it would be 4 percent overall variation
19 plus or minus 2 percent.

20 Delegate Jones's resolution is 1 percent
21 which would be a variation overall of 2 percent.

22 The reason that we feel strongly about
23 this, we think the public is comfortable with this
24 number. We used it 10 years ago. It is less likely
25 with the 2 percent that you would divide communities of

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1 interest, political jurisdictions. We support

2 contiguity, and a lot of the attributes that we both
3 seek in both of these resolutions, the 1 percent in our
4 opinion works against contiguity and compactness for
5 instance, communities of interest. That's the main
6 reason.

7 Even in the bipartisan commissions, one
8 of their drafts, they tried to keep within 2. Of
9 course it's legal to do more than a 2 percent
10 deviation, but they went outside 2 percent on a couple
11 of occasions to keep a community together in their
12 plans, and I think the public supports that, not
13 dividing jurisdictions unless you really have to, so
14 that is a big difference.

15 I will say under the minority
16 representation part of my resolution we say the Voting
17 Rights Act of 1965, the plans shall comply with Section
18 2, Section 5 as amended, House districts shall not be
19 established that result in a denial to members of
20 racial and linguistic minority groups as defined by the
21 Voting Rights Act an equal opportunity with other
22 residents to participate in the political process and
23 to elect representatives of their choice.

24 2. Minority participation. It's on the
25 bottom of the first page. The committee shall seek

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1 participation of minority groups in the redistricting
2 process through public hearings, access to public

3 computer terminals with census data and redistricting
4 software. We'd like to open this up more as much as
5 possible to the public to use the most advanced
6 software that we are using and other means to advance
7 the committee's consideration of redistricting plans.
8 We have a, this probably goes without saying, but we
9 have this Voting Rights Act preclearance. The
10 legislation adopted shall be submitted to the
11 Department of Justice for voting rights compliance to
12 make sure there's not discrimination on that.

13 Contiguity, Compactness, we agreed with
14 Delegate Jones on citing the cases that he cites in his
15 resolution.

16 Then Communities of Interest. To the
17 extent possible House districts shall unite communities
18 defined by actual shared interests, taking into account
19 geographic, social, economic, political, voting, and
20 incumbency considerations and other factors that
21 indicate a commonality of interest.

22 Political subdivisions. Plans shall be
23 drawn to avoid splitting counties, cities, and
24 townships as practical. Districts shall be formed so
25 as to promote the orderly and efficient administration

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1 of elections.

2 Of course that goes, as I said earlier,

3 the narrower the discrepancy on the districts, the more
4 these things will fight each other. That's why 2 is
5 better than 1.

6 Political Fairness. A redistricting plan
7 shall not be acceptable if it's drawn with the purpose
8 and effect of denying any group of persons who share a
9 common political association a fair opportunity to
10 elect candidates to the House of Delegates. We should
11 consider the existing districts in developing of the
12 new plan.

13 And of course I'm sure that the majority
14 agrees with this, the last number 3: The general
15 public shall be afforded an opportunity to participate
16 in the redistricting process through access to, well,
17 I'm sure, computer terminals providing census data and
18 redistricting software so that plans can be developed,
19 reviewed, and submitted for consideration to this
20 committee.

21 So that's the resolution. It's pretty
22 straightforward on its face, and we submit that for
23 your consideration.

24 DELEGATE COLE: Are there any questions
25 of the delegate regarding his, and just to let you know

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1 the buttons aren't working today, so get my attention
2 if you want to ask a question or anything like that.
3 Any questions of the patron?

4 All right, and my understanding is this
5 last paragraph regarding access to the computer
6 terminals, what is that, you talking about the public
7 access to the computer terminals on the second floor
8 or --

9 DELEGATE SICKLES: Yes, sir.

10 DELEGATE COLE: Okay.

11 DELEGATE SICKLES: They don't have to be
12 on the second floor, they could be set up in any place.
13 Just really the point would be equal access to the
14 public to the software that we use to draw these
15 districts.

16 DELEGATE COLE: All right, thank you.

17 All right, Delegate Jones, could you
18 present your resolution?

19 DELEGATE JONES: Sure, if I may. This
20 committee resolution looks exactly like the one we had
21 10 years ago except for 2 places. If you look at the
22 population, Population Equality, you will note that it
23 is plus or minus 1 percent versus plus or minus
24 2 percent is what we had 10 years ago. Some of us felt
25 that 10 years ago plus or minus 1 percent was the route

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1 to go but did not prevail, so we used the plus or minus
2 2 percent.

3 And the other exception to what we had

4 back in 2001 would be the citation of Wilkins versus
5 West which is under Roman Numeral 3, Contiguity and
6 Compactness, the last 2 lines of that paragraph, and
7 that was a court case that was filed and had the maps
8 from 2001 upheld by the court. So they are the 2
9 differences from what we had 10 years ago.

10 And if I could walk through items 1
11 through 6 briefly: Population Equality. The one man
12 one vote principle is certainly something that I think
13 we all can appreciate. It's an item that I believe is
14 in our Code, in our Constitution, and there have been
15 several cases over the decade since we last did this
16 measure or exercise I should say that dealt with that.
17 I think most importantly it was the Larios versus Cox
18 case in Georgia where they had patterns and deviations
19 which were used in a discriminatory manner. There they
20 found 4 patterns, and the 4 were as follows: They
21 overpopulated Republican districts and underpopulated
22 the Democratic districts, underpopulated the rural and
23 inner city districts in Atlanta, and they overpopulated
24 the suburban districts and the surrounding areas.

25 Number 3, the high growth areas were

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1 overpopulated and the slow growth areas were
2 underpopulated, and then the white areas were
3 overpopulated and it was underpopulation in the African
4 American areas. Any one of these by and of itself in

5 the court's opinion was sufficient to prove a violation
6 of the equal protection clause of the 14th Amendment,
7 and it's my opinion by going to the 1 percent we
8 foreclose the risk of having any type of Larios
9 violation, hence the reason for the plus or minus
10 1 percent.

11 Number 2 is the Voting Rights Act, and
12 this is the exact same language that we had the last
13 time. This insures that we will follow all aspects of
14 the Voting Rights Act of 1965 and any iterations since,
15 and I feel strongly that this will result in fair maps
16 being drawn, it will maintain the number of existing
17 majority/minority districts, and in these districts
18 maintain the level of minority voting strength and is
19 sufficient to allow the minority community to elect the
20 candidate of their choice. In order to avoid
21 retrogression to the extent possible given the growth
22 patterns of a given region or area, I feel like the
23 Voting Rights Act, the population equality are the top
24 2, and hence they are 1 and 2 on the list.

25 Then you get to Contiguity and

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1 Compactness. This is in our, I believe our
2 Constitution and the Code, and we follow the same
3 process we have used for the last several cycles with
4 the insertion of the citations of the 2 Supreme Court

5 cases.

6 Single Member Districts goes without
7 saying. I believe Putney, and I think that's the only
8 one on this committee, might have had the multimember
9 districts back in the early '80s I believe where you
10 had to run 3 --

11 DELEGATE JOANNOU: I'm Johnny.

12 DELEGATE JONES: You were here and came
13 back, I'm sorry, Johnny, and they had elections in 3
14 successive years, I believe, so they had some
15 multimember districts, so it goes without saying single
16 member districts.

17 Number 5 is Communities of Interest, and
18 we list all the various factors that shall be
19 considered and the weighting thereof.

20 And the last is Priority states there
21 clearly that given all the above foregoing criteria,
22 that population equality is the number one and
23 overriding concern, and that then compliance with the
24 Federal and State Constitution requirements and Voting
25 Rights Act shall be the second priority.

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1 And that, Mr. Chairman, is the resolution
2 before you, and I'll be glad to answer any questions
3 that individuals might have. I think it's very
4 straightforward, and thank you very much.

5 DELEGATE COLE: Delegate Spruill.

6 DELEGATE SPRUILL: Chris, explain to me,
7 and I'm looking at the 2 proposals.

8 DELEGATE JONES: Okay.

9 DELEGATE SPRUILL: One, explain to me
10 versus what he was talking about the plus or minus
11 1 percent. First question, Mr. Chairman, that we say
12 plus, can it go beyond 1 percent?

13 DELEGATE JONES: Right, you can go
14 1 percent above or 1 percent below, so you have
15 2 percent of variation that you can use. You can be no
16 more than 1 percent over the population if it's 80,010
17 people, or it can be no more than 1 percent under, so
18 you only have a 2 percent range.

19 Now under Delegate Sickles' resolution
20 you have a 4 percent range because it's plus 2 or minus
21 2, so you have twice the deviation that you would have
22 in the resolution that I have before you.

23 DELEGATE SPRUILL: Thank you.

24 DELEGATE SICKLES: Mr. Chairman.

25 DELEGATE COLE: Delegate Sickles --

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1 Delegate Scott.

2 DELEGATE SICKLES: Sorry.

3 DELEGATE SCOTT: Thank you, Mr. Chairman.

4 The first question I have is how, was this meeting
5 advertised as a public hearing on the criteria?

6 DELEGATE COLE: Yeah, that was the
7 intent, yeah.

8 DELEGATE SCOTT: It was advertised as a
9 public hearing on this matter?

10 DELEGATE JONES: Mr. Chair, if I may, it
11 was advertised as a meeting of the P & E Committee to
12 consider, so you have a meeting which is I think
13 normally what we do when we have a meeting.

14 DELEGATE SCOTT: So the reason for asking
15 the question was that if we want to have a real
16 significant amount of public input, it would have been
17 advertised it seems to me. Now I know if you say the
18 committee is meeting, of course the committee can take
19 up anything it wants to, but it seems to me if it
20 wasn't advertised as a principle part of business,
21 that's a shortcoming.

22 So if we are adopting a resolution today
23 then it will not be the subject of the hearings that
24 are listed in the blue sheet, will it, or --

25 DELEGATE COLE: My understanding is the

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1 subjects, the subject of the hearings for the blue
2 sheets will be the actual plan.

3 DELEGATE SCOTT: All right, so the, they
4 will not be part of the discussion at the hearing
5 subsequent to today?

6 DELEGATE COLE: No, but, you know, we did

7 have public hearings in the fall throughout the state
8 on the whole redistricting process including what
9 criteria should be used.

10 DELEGATE SCOTT: Okay.

11 DELEGATE JONES: Mr Chairman, if I may, I
12 had one individual who contacted me and I made very
13 clear that there would be a public comment period
14 during this meeting if they would like to come and
15 speak, and I would also like to indicate what is before
16 you are really traditional redistricting principles
17 that have been around and the court has helped shaped
18 these since 1993, so what is before you is not a
19 radical departure from what has occurred in the past.
20 We have added a new citation for a court case that was
21 tried back in 2002 and the fact you can choose a range
22 between plus or minus 5 to really a zero deviation
23 should you so choose, so that's really the question
24 that is before us in regards to the difference between
25 what Delegate Sickles has and what I have.

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1 DELEGATE SCOTT: Question, Mr. Chairman.
2 So both of these matters are now before the committee,
3 the resolution proposed by Delegate Jones and the
4 resolution proposed by Delegate Sickles?

5 DELEGATE COLE: That's correct.

6 DELEGATE SCOTT: Okay. And if there is

7 public concern in these 7 or 8 hearings that we have
8 about the resolution and what would be the process by
9 which we might revisit, change the resolution?

10 DELEGATE COLE: Any, you know, future
11 committee meeting could adopt another resolution or
12 whatever.

13 DELEGATE SCOTT: Are we scheduled to have
14 another committee meeting?

15 DELEGATE COLE: Yeah, we will have
16 another committee meeting, I think it's on April 4th.

17 DELEGATE SCOTT: April 4th. Okay, thank
18 you, Mr. Chairman.

19 DELEGATE COLE: Delegate Sickles.

20 DELEGATE SICKLES: Thank you,
21 Mr. Chairman. I'd like to ask counsel a question.

22 My question, Ms. Spain, is in keeping
23 with the law on what a legal deviation would be and
24 keeping the 1 person 1 vote in the context of a state
25 election, what is the legal range that we would be able

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1 to enact without any concern?

2 MS. SPAIN: The Supreme Court has given
3 indications that plus 5 percent to minus 5 percent is
4 usually acceptable. In the last decade there have been
5 a couple cases that have challenged plans with the less
6 than 10 percent deviation range objecting to the
7 deviation, and so there's no guarantee the plus or

8 minus 5 percent works.

9 In addition you have the record of plus
10 or minus 2 percent deviation that you adopted 10 years
11 ago and lived with, and that might invite some
12 challenge to broader deviations.

13 DELEGATE SICKLES: Thank you. Thank you,
14 counsel.

15 Mr. Chairman, I'll speak to the bill at
16 the appropriate time.

17 DELEGATE ALEXANDER: Mr. Chairman.

18 DELEGATE COLE: Go ahead.

19 DELEGATE ALEXANDER: Just 2 questions.
20 Besides the deviation range and the general public
21 having the opportunity to use the computers or the
22 software, what is -- are there major differences
23 besides those 2 items in the proposals?

24 DELEGATE SICKLES: I can try to answer
25 that, Mr. Chairman. In part, I might not have it all,

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1 but we did talk about a couple things that may be a
2 little differently, I don't think they are
3 controversial, but putting them on paper I think is
4 helpful, and that is the point about minority
5 participation and the committee seeking the
6 participation of minority group members in the
7 redistricting process, I mean just stating that is

8 important to us, and I think that's a key one.

9 I think Delegate Jones is, correct me if
10 I'm wrong, Chris, but I think you do cover Voting
11 Rights preclearance and compliance with the Voting
12 Rights Act, that's in yours.

13 DELEGATE JONES: Uh-huh.

14 DELEGATE SICKLES: So I think that
15 specific, and let me see if there's something else
16 here, we talk about political subdivisions separately
17 and political fairness as far as making sure groups and
18 politics have a fair, or different parties have a fair
19 chance at being elected from a district. These are
20 things that I don't think are controversial, but we
21 state them explicitly, and they are not stated
22 explicitly in the alternative, would you agree with
23 that?

24 DELEGATE JONES: Mr. Chairman, I would
25 say I could generally agree with that. I think if you

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1 talk about the public, minority participation, I think
2 Mark is saying you want to have public comment and
3 encourage public comment. If you look at number 5
4 about the fifth line down it says public comment has
5 been invited, has been and continues to be received and
6 will be considered, so we speak in general to the
7 public comment aspect and process, and we as well go on
8 to talk about the communities of interest, we talk

9 about the economic factors, social factors, cultural
10 and geographic features, governmental jurisdiction and
11 service delivery, et cetera, political beliefs, voting
12 trends, incumbency, so you kind of have more of a
13 catchall section than more specific spelling out like
14 the gentleman from Fairfax would have.

15 DELEGATE SICKLES: Mr. Chairman, would
16 the gentleman from Suffolk be okay with including some
17 of our language on those 2 points for clarification
18 purposes?

19 DELEGATE JONES: I would say to the
20 gentleman this exact resolution was favorably
21 considered by the DOJ last time and was constructed in
22 such a way that it met all the requirements of the law
23 and Constitution, et cetera, so I'm more comfortable
24 with what is before us and the resolution that I have,
25 and so I would not be willing in that regard to take

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1 any changes at this time.

2 DELEGATE SICKLES: Mr. Chairman,
3 follow-up. Did the gentleman say he would not be
4 willing to take any changes? Because then I won't ask
5 the next question which was the question about public
6 access to the redistricting software that we are using.

7 DELEGATE JONES: Mr. Chairman, I would
8 say to the gentleman that I think that question was

9 asked on the floor on several different occasions at
10 the end of our session, and I believe there are, you
11 know, on line programs that are out there and I believe
12 we now have our web site running at Legislative
13 services, you can actually go on, it's multilayered,
14 you can see the existing precincts, you can go down to
15 the block census layer and you can actually make
16 comments on any plan that has been introduced. Let's
17 say for example if a plan is introduced next Tuesday,
18 it's on line. Then someone from Norfolk can go on line
19 and look to see what is out there, they can look in
20 let's say whether it's Berkley or Ghent or let's say if
21 they are in Isle of Wight County up in the Bartlett
22 area, they could go in and make a comment that would
23 then be imbedded on that plan with that map, so they
24 have public comment of what was a concern of the
25 citizen.

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1 So I do believe that there are ample
2 opportunities for public participation. I think we
3 have gone to great lengths to make sure from the
4 convenience of your home you can access to see what
5 exactly is being proposed for you, for your district,
6 for your community, and for your precinct, and then you
7 can actually come out to one of the 8 public hearings
8 that will be occurring over a 5 day period which is
9 Thursday, Saturday, and then Monday here in Richmond at

10 10:00 o'clock, so I feel we have gone and done much
11 more than we did 10 years ago with having public
12 hearings last fall. The Joint Reapportionment
13 Committee had several meetings during the session, I
14 think Senator Howell in the back, and we had at the
15 very end an opportunity for the public to come in and
16 view the existing districts as they are configured
17 today with the census data with all the quote, unquote,
18 demographic data before them, so I think there's been,
19 there is and has been an attempt to make sure it is as
20 much public input as possible during the process.

21 DELEGATE ALEXANDER: Question for
22 Delegate Jones. Delegate Jones stated that the
23 language that he's proposing has been cleared by the
24 Justice Department at previous redistricting --

25 MS. SPAIN: It has been sent to the

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1 Justice Department as part of the submission of the
2 House plans from last time, it is not precleared as a
3 separate entity, but the Justice Department has full
4 access to it.

5 DELEGATE JONES: Correct.

6 DELEGATE DANCE: Mr. Chairman.

7 DELEGATE COLE: Delegate Dance.

8 DELEGATE DANCE: I have a question for
9 Delegate Jones. In between these 2 resolutions and the

10 wording and everything, is there any possibility of a
11 consideration of that plus or minus 2 percent to
12 replace the 1, the plus or minus 1 percent? I concur
13 with the information as far as availability because I
14 spent a lot, a week or so playing with the software at
15 home on my computer using the access and before I was
16 brave enough to come to Richmond and spend the next
17 couple weeks modeling just for some of my colleagues
18 and myself in the Brandon area or whatever in doing it,
19 because I'm not the expert, I'm sure it can be done
20 within that range, but it's the comfort level and
21 hearing from the Bipartisan Commission, and the people
22 say let's hear these votes saying I know they have been
23 modeling with the plus or minus 2 percent as well, and
24 I'm sure the majority of this will meet that plus or
25 minus 1 just from playing with it, but for the comfort

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1 level of those who would have concerns about that
2 particular piece, I'm just asking, is there a
3 possibility?

4 DELEGATE JONES: I think anything is
5 possible probably, but it is my recommendation that we
6 adhere to the plus or minus 1 percent for the
7 aforementioned reasons. The court case that occurred
8 down in Georgia I think is very clear that the tighter
9 the deviation, I believe, the less ability you have to
10 underpopulate one group versus the other group that

11 might be overpopulated, and I think the entire
12 deviation just makes more sense and hence the reason
13 that I came forth with the plus or minus 1 percent. I
14 certainly can understand, you know, the plus or minus
15 2, but in light of what has occurred I think that the
16 best public policy for us to adopt is a plus or minus
17 1 percent.

18 DELEGATE COLE: Delegate Cosgrove?

19 DELEGATE COSGROVE: Question for Delegate
20 Jones.

21 Delegate Jones, fully half of this
22 committee was not here, but you say this was done 10
23 years ago, we are going okay, if you say, so I think we
24 understand what was going on, but I have been on P & E
25 for the whole 10 years I been in the House, and what we

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1 had to do after that last redistricting because we had
2 to keep tweaking the districts for almost 2 years. In
3 your opinion would taking it down to 1 percent, would
4 that eliminate some of that tweaking that we would
5 probably have to do in the future?

6 DELEGATE JONES: You know, I don't know
7 if I can answer that question, but I certainly can tell
8 you that what's going to happen, and I know that Mary
9 and some of the other veterans sitting before me, that
10 every time you do a new map and you reapportion and

11 then redo the districts, all 100, you have a tremendous
12 growth in certain areas and a loss of population in
13 others, and what the jurisdictions will have to over
14 the course of the next 18 to 24 months look to redo
15 some of their precincts, so then what happens, they
16 might adhere to what we have done or ask us, you know,
17 we have looked at this, we have added to the core
18 populated magisterial districts, could you make an
19 adjustment after the fact, and that's happened over the
20 last 2 or 3 cycles, I believe, I see the nodding of the
21 heads, so I would anticipate that you would have, still
22 have a reason to come back after the fact just because
23 of the, you know, we have political subdivisions that
24 have to do the same exercise.

25 DELEGATE COSGROVE: Thank you.

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1 DELEGATE PHILLIPS: Mr. Chairman.

2 DELEGATE COLE: Delegate Phillips.

3 DELEGATE PHILLIPS: Thank you,
4 Mr. Chairman. If you look at the 2 plans there, then
5 my analysis is there is really only one major
6 distinction, and that is the plus or minus 2 or the
7 plus or minus 1, and to get at the question that was
8 just asked previously, it's just my opinion that the
9 tighter that your districts are drawn, the more likely
10 that you'll have to make changes when you come back in
11 my opinion, and the reason being is you have less

12 tolerance in those precincts and those districts if you
13 have any growth or losses, so the question is going to
14 be if you draw it this tight to the 1 percent, to the
15 2 percent deviation, I just think it's more likely you
16 are going to come back at some point after this is
17 approved and have probably some substantial changes
18 have to be made in districts, so I guess that's the
19 question for the whole committee to determine is what
20 tolerance of deviation can you stand and do you want in
21 this particular plan, and that's the real issue I think
22 in front of the committee today, and it's just my
23 humble opinion that the tighter the deviation, the more
24 changes you are probably going to have to make when you
25 come back. If you have changes in growth minus or plus

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1 in those districts, you know, either one of them will
2 work, but the question is how much work do you want to
3 do when you come back, and I think that's going to be
4 the issue.

5 DELEGATE COLE: All right, hearing no
6 other -- all right, Delegate Sickles.

7 DELEGATE SICKLES: If you were preparing
8 to vote --

9 DELEGATE COLE: No, no, what I was
10 preparing to do, I'd rather not do any motions right
11 now until we hear if anybody has any public comment.

12 DELEGATE SICKLES: Okay, just want to
13 speak before we vote.

14 DELEGATE COLE: All right. Does anybody
15 in the audience, any member of the public wish to be
16 heard on the issue of redistricting criteria? If so,
17 please step forward and identify yourself.

18 LISA GUTHRIE: Good afternoon,
19 Mr. Chairman, members of the committee, I'm Lisa
20 Guthrie and I'm the executive director of the Virginia
21 League of Conservation Voters.

22 Our organization has been a member of the
23 Redistricting Coalition for over 3 years, and this
24 coalition brought together member groups of faith,
25 business, conservation, and civic organizations to

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1 promote reform of Virginia's redistricting process.
2 Our coalition made it possible for the student line
3 drawing competition, you may have heard about those
4 awards earlier this week, and our coalition also
5 advocated for legislation to institute a bipartisan
6 commission. When that legislation failed in the House
7 of Delegates, we asked Governor McDonnell to advance
8 the commission. We are pleased that he did and we
9 appreciate the efforts of the commission to hear
10 citizen comments around the state.

11 Why did we advocate for a different
12 approach for 2011? Well, we believe that Virginians

13 deserve the following: Number 1: Fairly drawn
14 district lines to create more competitive elections
15 which have generally a 51 percent or higher voter
16 turnout. Virginia needs competitive elections to
17 remain at the forefront of the nation.

18 Number 2: Districts should reflect our
19 communities. District boundaries should be compact,
20 keeping communities together. Some of these are things
21 that you all have incorporated.

22 Number 3: Allow transparency and citizen
23 input that would instill a greater sense of fairness
24 and accountability to the process.

25 Number 4: Incumbent protection should

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1 not be a ruling factor. Citizens should have the
2 choice to select their elected officials.

3 In addition to these overarching
4 objectives, there are some other things that I wish to
5 bring to your attention today. Despite your public
6 hearings in the fall and all the public hearings that
7 the commission has put on, most citizens are not aware
8 of the redistricting process. If they are aware of it
9 at all and wish to participate, they may not understand
10 that the criteria that the Governor provided for the
11 commission may be different from the criteria that the
12 Privileges and Elections Committees may adopt. In some

13 states, as has been referenced, citizens have access to
14 legislative computers and line drawing software
15 themselves. Our citizens may also be unaware of the
16 abbreviated public comment period leading up to the
17 special session on April 4th. The Governor has
18 indicated that he wants districts to be nearly equal to
19 the population of every other district as practicable.
20 That means that districts should have a very small
21 population deviation. In your plan you talked about
22 will the 1 percent be stricter than the 2 percent from
23 10 years ago reflects this. If the Governor indicates
24 that he wants all districts to respect the boundary
25 lines of existing political subdivisions, he further

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1 directed the commission to keep the number of counties
2 and cities divided among multiple districts to be
3 minimal. Well, some of these criteria and goals appear
4 to be in conflict with each. We know that it's
5 difficult to draw districts that have minimum
6 population deviation and not divide counties and cities
7 and also preserve communities of interest.

8 Finally the Governor's criteria states
9 that all districts shall be composed of contiguous and
10 compact territory. The state Constitution also
11 requires that districts be contiguous. 20 years ago
12 the definition required districts crossing water bodies
13 to have at least a tunnel, a road, a bridge, or a ferry

14 to connect separate land masses. That requirement was
15 eliminated 10 years ago, and we think it would make
16 sense to have districts be connected in a way that
17 residents could easily travel from one point to another
18 in the district without having to go through another
19 intersecting district or at least be able to get there
20 conveniently.

21 So again I ask you for your consideration
22 in a fair, and I know it's a tough job ahead of you,
23 but we hope even under these tight time lines, you
24 know, other states have another year to prepare for
25 their redistricting. We are under a tight time line,

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1 we recognize that, but we wish that there was even more
2 opportunity for the public to be involved in this very
3 important aspect of our democracy.

4 Thank you very much, Mr. Chairman.

5 DELEGATE COLE: Does anyone else wish to
6 speak?

7 CLAIRE GUTHRIE-GASTANGA: Mr. Chairman,
8 Claire Guthrie-Gastanga for myself as a private
9 citizen. I just wanted to point out, because you were
10 referring back to the history, some differences that
11 took place in 2001 versus 1991, and those differences
12 were pointed out in litigation that took place in 2001
13 and 2, but I think they are significant and I think

14 just reminding the committee of the changes is an
15 important piece of the history that ought to be on the
16 record.

17 First the 1991 criteria stated that
18 populations of districts shall be as nearly equal as
19 practical and specifically prohibited any deviation
20 plus or minus 5 percent. That means that there were
21 plans that were drawn in 1991 that were upheld and were
22 legal that were the plus or minus 5 percent, and it was
23 in 2001 that that was changed to plus or minus
24 2 percent.

25 In 2001 the criteria changed the standard

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1 for contiguity by water, as Lisa was pointing out. The
2 1991 criteria stated that districts shall be composed
3 of contiguous territory and contiguity by water was
4 defined as acceptable to link territory within the
5 district in order to meet the other criteria stated
6 herein and provided that there is reasonable
7 opportunity for travel within the district. The 2001
8 criteria were identical to what is in this resolution
9 today and led to the development of a district that's
10 connected through Prince George County simply by water,
11 and there's no way meaningfully to get to two different
12 parts of that district, and so that contiguity by water
13 has been used to create districts that where there are
14 no meaningful communities of interests or real

15 connection.

16 The 2001 criteria vented the long
17 standing policy of the Commonwealth against splitting
18 political subdivisions. The 1991 criteria stated the
19 plans should be drawn so as to avoid splitting
20 counties, cities, and towns to the extent practicable
21 and that precincts should serve as the basic building
22 blocks for districts when it's necessary to split any
23 county or city. And the 2001 criteria are identical to
24 the ones you have before you that talk simply about
25 that there may be a reflection of community of interest

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1 are reflected in those jurisdictions, but,
2 jurisdictional lines, but they are not entitled to
3 greater weight as a matter of state policy. The 2001
4 criteria changed the standard for preserving
5 communities of interest from 1991 where it stated that
6 consideration shall be given to preserving communities
7 of interest, simply the 2001 criteria stated it's
8 inevitable that some interests will be advanced more
9 than others, et cetera, and included this language that
10 says that the discernment and weighting of the factors
11 is uniquely something that should be done by elected
12 representatives.

13 And finally the 2001 requirement
14 eliminated a prior requirement, the criteria eliminated

15 a prior requirement for input from minority groups.
16 The 1991 criteria had stated explicitly that the
17 committee seeks the participation of minority group
18 members in a redistricting process and that minority
19 group members shall be afforded a full and fair
20 opportunity to participate in the process leading to
21 adoption of any redistricting plan. The 2001 criteria
22 limited that requirement as does this identical
23 resolution.

24 I just think it's important to reflect
25 those changes in the historical criteria simply to put

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1 on the record that what you have done in 2001 isn't
2 what you have always done and that there are things I
3 think that should be considered that sometimes changes
4 from the past are not changes for the better, and I
5 personally would hope that you would move in the
6 direction advanced by Lisa Guthrie, and also in some
7 respects I would hope that you might move backwards to
8 looking at language that you had in your '91 criteria
9 which is currently absent from this proposal.

10 Thank you very much for your attention.

11 DELEGATE COLE: All right.

12 Anyone else wish to speak? Okay, hearing
13 none, what is the will of the committee regarding the 2
14 resolutions?

15 DELEGATE JONES: Delegate Alexander

16 wishes to --

17 DELEGATE COLE: Delegate Alexander.

18 DELEGATE ALEXANDER: Mr. Chairman, can I
19 make a motion to speak to the motion?

20 DELEGATE COLE: All right.

21 DELEGATE ALEXANDER: Mr. Chairman, I make
22 a motion that we --

23 DELEGATE COLE: Let me hold up so that we
24 can make sure we know what we are talking about.

25 Mary, for the purposes of reference, I

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1 want to, since I believe Delegate Jones's was the first
2 committee resolution presented, I'd like to refer to
3 that as Committee Resolution Number 1, and Delegate
4 Sickles, I'd like to refer to that as Committee
5 Resolution Number 2.

6 DELEGATE JONES: Mr. Chairman, prior to
7 Delegate Alexander making a motion, I'd like to make a
8 couple comments.

9 DELEGATE COLE: Go ahead.

10 DELEGATE JONES: I want to thank the
11 speakers for their comments, and I just would note that
12 I think mention was made of the Governor's Commission
13 and their criteria, I think they have 5, and I know
14 that we have 4 of those 5 in that Committee Resolution
15 Number 1.

16 And with regards to the comments about
17 the plus or minus 5, I think we addressed that earlier,
18 there have been court cases since 1991 that have spoken
19 to the fact that that's not a safe harbor and the fact
20 that we did have the quote, unquote criteria was
21 tested, it was approved by DOJ as part of our
22 submission process. We did go through a court case and
23 we prevailed on every point with regards to contiguity,
24 compactness, access by water, et cetera, and that's the
25 reason for the citation of Wilkins v West, 264 Va. 447,

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1 (2002). So I really do appreciate the comments of the
2 speakers before us, but I just want to note and thank
3 them for their coming out today and making us aware of
4 their thoughts.

5 DELEGATE COLE: Okay. Any other
6 comments?

7 All right, Delegate Alexander, do you
8 have a motion? Delegate Sickles.

9 DELEGATE SICKLES: Mr. Chairman, I would
10 move Committee Resolution Number 2 if we could.

11 DELEGATE COLE: All right. There's a
12 motion to adopt Committee Resolution Number 2 which is
13 Delegate Sickles' resolution. Is there a second?

14 DELEGATE SCOTT: Second.

15 DELEGATE COLE: Motion and second.

16 Delegate Cosgrove.

17 DELEGATE COSGROVE: Mr. Chairman, a
18 substitute motion to adopt Resolution Number 1.

19 DELEGATE COLE: There is a substitute
20 motion to adopt Committee Resolution Number 1 which is
21 Delegate Jones's resolution. Is there a second?

22 NOTE: Seconded.

23 DELEGATE COLE: Second. Any other
24 discussion? Delegate Sickles.

25 DELEGATE SICKLES: Speaking to the

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1 substitute motion, as the gentleman from Suffolk just
2 mentioned, the court case 10 years ago that we cite in
3 both of these resolutions upheld the 2 percent
4 deviation. 2 percent deviation has been legal. As a
5 person with conservative instincts, I say why change
6 something that worked so well, was upheld by the court.
7 The commission did not use, the Bipartisan Commission
8 did not use the 1 percent deviation. They basically
9 have used a 2 percent deviation with a couple of
10 exceptions where they went a little bit higher, so
11 they, the Commission is not doing it because it works
12 against, as I said earlier, contiguity and compactness
13 and political jurisdiction splitting, which leads me to
14 another reason why we should defeat the substitute
15 motion, because we need to allow people to use this
16 software that goes down to census block data because

17 especially if you are going to move to a 1 percent
18 deviation, you will be splitting precincts more often,
19 it's inevitable, and the census block data is not
20 available on your home computer. The good software
21 that's out there that's very helpful does not get down
22 to the level that you would need to draw districts to a
23 1 percent deviation, so for those reasons I would hope
24 that we would defeat the substitute motion and adopt
25 the original motion.

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1 DELEGATE COLE: Just like to make one
2 comment regarding some of you mentioned as far as
3 splitting precincts. Precinct boundaries are under the
4 jurisdiction of the local government, and during the
5 last redistricting I was on the Board of Supervisors in
6 Spotsylvania County and I made sure that we did not
7 have any split precincts in Spotsylvania County, so
8 it's a fairly simple process for a locality if they
9 wish to avoid split precincts, just adjust precinct
10 lines.

11 DELEGATE DANCE: Mr. Chairman.

12 DELEGATE COLE: Delegate Dance.

13 DELEGATE DANCE: Just want to know
14 procedurally, can I introduce an amendment to the
15 resolution, the substitute resolution that's on the
16 floor?

17 DELEGATE COLE: No, we already have a

18 substitute motion so we cannot have another substitute.

19 Any other comment or discussion?

20 DELEGATE SICKLES: Mr. Chairman, I would
21 just say that if you recognize me --

22 DELEGATE COLE: All right --

23 DELEGATE SICKLES: -- I would just say to
24 your point that sometimes precinct lines are
25 constructed, that doesn't mean a lot. Sometimes they

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1 do represent an area of interest, and I think that it's
2 in their, they have been there for a reason, and that's
3 why opening up within census block data to the public
4 would be something that is supported in Committee
5 Resolution Number 2.

6 DELEGATE COLE: All right.

7 Delegate Scott?

8 DELEGATE SCOTT: Mr. Chairman, just a
9 question. What is the process or how are we going to
10 advertise these public hearings?

11 DELEGATE COLE: I would assume that
12 they'll be advertised on line just consistent with any
13 other committee meetings that we have had. I know I
14 believe the notice had already been posted regarding
15 those meetings, so Delegate Jones.

16 DELEGATE JONES: Mr. Chairman, if I may,
17 given the heightened interest that we have had in the

18 last 6 to 9 months with the college competition and the
19 Governor's Commission, there's no doubt that I think
20 every newspaper and every news outlet in Virginia is
21 going to be carrying when these are and where they are
22 and what time they'll be conducted, so I think the
23 advertising of the public hearing will be taken care of
24 as they should by our normal process of doing business
25 plus the news media's interest and obligation I think

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1 is something to make sure the public is aware of what
2 is going on with their government.

3 DELEGATE COLE: I just add a comment that
4 I mean all these meetings including this one have been
5 advertised consistent with our practice of advertising,
6 you know, giving notice if you will, not necessarily
7 advertising, giving notice regarding these meetings, so
8 there has been no deviation that I'm aware of of our
9 standard practice for advertising the meetings.

10 DELEGATE SCOTT: Mr. Chairman, just seems
11 to me that this is perhaps important enough to be sure
12 that it is widely advertised, not just according to
13 computer advertising and that sort of thing. That was
14 my main concern.

15 DELEGATE COLE: Okay.

16 DELEGATE SCOTT: And because we didn't
17 have a whole lot of notice for today that we were going
18 to be adopting and we had letters going back and forth

19 on what information would be available before this
20 meeting, it seemed to me that we err on the side of
21 more rather than less.

22 DELEGATE COLE: All right, I believe
23 notice of this meeting went out almost 2 weeks ago.

24 DELEGATE SCOTT: Yes, sir, but as you
25 know, we had some discussion between yourself and

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1 Delegate Toscano about some things that were going to
2 be taking place, and frankly I think it didn't quite
3 get done, so seems to me --

4 DELEGATE COLE: I'm not sure what --

5 DELEGATE SCOTT: well, there was
6 information in the letter saying that there would be --

7 DELEGATE JOANNOU: Mr. Chairman, we are
8 on a motion right now. Point of order.

9 DELEGATE COLE: Okay, you are right, you
10 are right.

11 All right, any other discussion on the
12 motion? We kind of deviated there a little bit, but, I
13 don't know, it's probably a 5 percent deviation there.
14 But anyway so we have a motion before us to adopt
15 Committee Resolution Number 1.

16 All right, the clerk will call the role.
17 Number 1 is Delegate Jones's resolution.

18 THE CLERK: Delegate Putney (aye),

19 Ingram (aye), Jones (aye), Albo (aye), Cosgrove (aye),
20 O'Bannon (aye), Bell (aye), Miller (aye), Landes (aye),
21 Janis (aye), Hugo (aye), Gilbert (aye), Cox (aye),
22 Phillips (aye), Scott (no), Alexander (aye), Joannou
23 (aye), Sickles (no), Howell (aye), Dance (aye), Spruill
24 (aye).

25 DELEGATE COLE: Cole is aye.

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1 MR. MADDREA: Cole is aye. 20 to 2.

2 DELEGATE COLE: All right, the resolution
3 is adopted.

4 Any other business to be brought before
5 this committee? Committee will rise.

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8 ---Conclusion---

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CERTIFICATE OF COURT REPORTER

4

5 I, Lynn Aligood, hereby certify that I was the
6 Court Reporter for the hearing conducted of the
7 House Privileges and Elections Redistricting
8 Committee with public comment.

9 I further certify that the foregoing transcript
10 is a true and accurate record of the hearing to
11 the best of my ability.

12 Given under my hand this 28th day of March
13 2011.

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Lynn Aligood, Court Reporter

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