

March 11, 2014

Ms. Kim Westbrook Strach, Executive Director  
Chairman Joshua Howard, Chairman NC State Board of Elections  
Mr. George McCue, NC State Board of Elections, Elections Specialist  
North Carolina Board of Elections  
PO BOX 27255  
Raleigh, NC 27611-7255

**Re: Evaluation and Comparison of Watauga County Board of Elections One-Stop Implementation Plans for the 2014 Primary Elections**

Dear Ms. Strach:

The Watauga County Board of Elections considered two proposed One-Stop Implementation Plans for the May 6, 2014 primary elections at its meeting on March 5, 2014. Neither plan was approved unanimously as required under North Carolina statute.

I did not support the majority One-Stop Implementation Plan (*henceforth the Majority Plan*) (1) because it flies in the face of state statutory obligations that the Plan address demographic, geographic and partisan interests in a non-partisan manner; (2) because the Plan is designed to and will, in fact, disenfranchise and suppress the votes of 18-29 year old Watauga County voters; (3) because the Plan is designed to and will, in fact, disenfranchise and suppress the votes of non-white Watauga County voters; and (4) because the Plan is designed to and will, in fact, disenfranchise and suppress the votes of Democrats and Democratic-leaning Unaffiliated Watauga County voters.

**Therefore, the Majority Plan is in direct violation of North Carolina law, the North Carolina Constitution, the 14<sup>th</sup> and 26<sup>th</sup> Amendments of the United States Constitution, and the Voting Rights Act of 1965 as amended.**

For these reasons, pursuant to North Carolina General Statute §163-227.2(g), I am petitioning the North Carolina State Board of Elections to approve the attached One-Stop Implementation Plan for the upcoming Watauga County 2014 primary elections. My Plan provides for 6 One-Stop voting locations distributed throughout Watauga County. It (1) is the only submitted Plan that satisfies state-required demographic, geographic and partisan obligations; (2) is the only submitted Plan that is demographically and geographically non-discriminatory; (3) is the only submitted Plan not calculated for partisan advantage; and (4) is, therefore, the only submitted plan that can be upheld as compliant with North Carolina law, the North Carolina Constitution, federal law and the United States Constitution.

## **I. BACKGROUND**

The Watauga County Elections Board has angered many voters of all political parties since its inaugural meeting in 2013.

The public believes the Board is making decisions out of the public eye and has been extremely frustrated that the Board has, until very recently, not allowed public comment at its meetings. Of particular sensitivity has been the Board's resolution to consolidate three of the County's largest precincts into one Super Precinct; the decision to move another large precinct location out of the Boone town limits for the 2013 Town of Boone elections; the refusal to continue Election Day or early voting opportunities in the Appalachian State University (*henceforth ASU*) Student Union; and the elimination of all but one early voting location for the 2013 municipal elections.

As a result, Watauga County election matters have become the focus of intense local, state, and national news coverage. The inability of our Board to come together in a non-partisan fashion ultimately resulted in State Board intervention individually with Watauga Board members to encourage better communication with both each other and with the public at large.

In an effort to quell both citizen and State Board demands for change, the Watauga Board voted at its meeting on February 17, 2014 to hold a well-publicized, informal public "workshop," in which citizens could approach Board members one-on-one to share ideas and concerns regarding one-stop locations for the 2014 primary elections.

**Citizens attended the workshop en masse to make their voices heard.<sup>1</sup>**

The citizens who attended the workshop represented many walks of life, were of a wide range of age, and were of both major political parties. They lived in diverse areas of the County, but they were nearly unanimous about wanting an early voting location in the ASU Student Union. Watauga residents, including those living in remote areas of the County, told Board members that because they had jobs at ASU (the largest employer in Watauga County), they wanted to continue casting ballots at the Student Union just as they have been doing since 2008.

**Watauga Board of Elections Secretary Aceto publically acknowledged that an early voting location at ASU was the will of the people (see Exhibit 1):**

---

<sup>1</sup> "Elections Board Talks Early Voting," The Watauga Democrat, February 25, 2014. See Exhibit 1.

*Aceto said he wanted to wait until after he listened to the public at the workshop and read all the letters he has received before formalizing an opinion on where early voting sites should be located. According to Aceto, **about 90 percent of the comments he received during the workshop were in regard to having a location at Appalachian State University's student union.** "A lot of folks I've talked to work at ASU and would like to see a location at the ASU student union," he said.<sup>2</sup>*

In light of the strong public demand for a one-stop voting site at the ASU Student Union, on February 26th I invited my fellow Board members to revisit the proposed ASU Student Union "Linville Falls" room in an open board meeting to review and address any concerns they might have about the site as an early voting location (see Exhibit 2), which on its face appears to meet all requirements of the statute, is centrally-located on the campus, is easily accessible to staff, students and visitors, and is desired by Watauga voters.

Mr. Aceto refused, and Chairman Eggers did not respond.<sup>3</sup>

At the meeting of the Board on March 5<sup>th</sup>, Mr. Aceto promptly declared his proposed One-Stop Implementation Plan. Chairman Eggers did not offer a plan of his own and seconded Mr. Aceto's Plan without delay. Mr. Aceto's Plan did not include an early voting location at ASU. **In fact, Mr. Aceto's Plan offered only one early voting location to serve a minimum of 60% of all Watauga voters.**

In spite of his public acknowledgement that 90% of the citizens attending the workshop wanted an early voting location in ASU's Student Union (*and in spite of the fact that the vast majority of citizens attending the March 5<sup>th</sup> meeting continued their push for an early voting location at ASU*), Mr. Aceto joined Mr. Eggers in refusing to even discuss an ASU one-stop voting location. When I extended a hand to compromise with my fellow Board members on a plan we could make work in a non-partisan fashion for all the voters of Watauga County, Mr. Aceto immediately pronounced that it would be inappropriate for Board members to "*bargain*"<sup>4</sup> on polling places<sup>5</sup> (see Exhibit 3).

---

<sup>2</sup> Ibid, The Watauga Democrat, February 25, 2014. See Exhibit 1.

<sup>3</sup> Chairman Eggers, in fact, voted against an ASU Student Union election site last September without ever having seen it.

<sup>4</sup> Definition of Bargain: "*to haggle; negotiate, to come to an agreement*" Dictionary.com

<sup>5</sup> "*No Early Voting on ASU Campus for May Primary, Watauga Election Board Decides in 2-1 Vote Wednesday,*" High Country Press, March 6, 2014. See Exhibit 3.

The public left frustrated and angry, fully convinced that the workshop, which had been promoted as a desire to act on behalf of what the voters wanted, had turned out to be nothing more than a premeditated public relations stunt by Chairman Eggers and Mr. Aceto.

## **II. NC GENERAL STATUTE §163-227.2(g) REQUIRES THE STATE BOARD OF ELECTIONS TO CONSIDER GEOGRAPHICS, DEMOGRAPHICS, AND PARTISAN INTERESTS IN ADOPTING ONE-STOP IMPLEMENTATION PLANS**

If a North Carolina county Elections Board is unable to approve unanimously a One-Stop Implementation Plan and any member of that Board proposes adoption of a particular plan, the NC State Board of Elections may choose among proposed plans or choose one of its own making. Regardless of what Plan the State Board decides, NC General Statute §163-227.2(g) requires that the State Board of Elections take into consideration the **geographic, demographic and partisan interests** of a county in adopting a one-stop plan:

***“...The State Board, in that plan, SHALL take into consideration factors including geographic, demographic, and partisan interests of that county.”***

The State Board of Elections has considered early voting plans for four counties in the past year: Watauga, Burke, Forsyth (twice), and Guilford. In each of these counties, the minority county Democratic Board member has refused to support the Republican majority proposed Plan.

**Not once has the State Board failed to support the plan proposed by the Republicans of the local Board over that of the plan submitted by the Democrat of the local Board.**

On March 6<sup>th</sup>, the State Board considered One-Stop Implementation Plans for the 2014 primary elections submitted by Forsyth County’s Board of Elections members. Prior to that meeting, the State Board received a letter from the Chairwoman of the Forsyth County Democratic Party<sup>6</sup> relating critical concerns about the Majority Plan. Her letter called to the State Board’s attention (and outlined in considerable detail) the geographic, demographic, and partisan failures of the Forsyth Board of Elections Majority Plan, most specifically related to racial discrimination, partisan disadvantage, population density, and a lack of public transportation to the Majority Plan’s proposed sites.

---

<sup>6</sup> Letter to North Carolina State Board of Elections Executive Director, Kim Strach, from Susan Campbell, Chairwoman of the Forsyth County Democratic Party, March 4, 2014. See Exhibit 4.

The State Board considered circled maps of both the Majority Plan and Minority Plan. One Board Member was bothered that there was a 50% overlap of 2 concentric circles in the center of the Minority map. The Board also noted that the Minority Plan offered fewer voting sites; touched on drive times for voters; and took a superficial look at the geographic distance between proposed one-stop sites (see Exhibit 5),<sup>7</sup> but the Board never addressed specific voting populations within the circled areas on the maps, even after one Board member specifically asked for that information.<sup>8</sup> The Board thusly concluded that one early voting site where the majority of Forsyth voters lived was sufficient.

In fact, the State Board has never pointed to a thorough scrutiny of demographics, partisanship or geography as determinative factors informing its final decisions to support or refuse a proposed One-Stop plan (see Exhibits 5, 6, and 7).

Instead, the State Board has ultimately voiced its final support in favor of Republican majority one-stop plans by citing a general reluctance to overturn a Majority Plan or by concluding that if the Majority Plan proves not workable, the Board can revisit it in the next election cycle. The Board has also pointed to historic low turnout, site hours, and/or the expense of running additional one-stop locations as reasons for supporting or denying any given plan (see Exhibits 5, 6, and 7).

While these observations or sentiments may be pertinent to a Board discussion of one-stop plan proposals, they do not provide a basis of findings that support the geographic, demographic and partisan interest scrutiny required by NC General Statute §163-227.2(g).

---

<sup>7</sup> The State Board acknowledged that the city of Winston-Salem enclosed the largest voting population and was centered in the middle of the county geographically, but its contemplation of population density ended there. The Board never considered demographics in conjunction with its casual geographical discussion of proposed one-stop sites.

<sup>8</sup> State Board Member Malcolm: *"...can you speak to me about voters, the number of potential voters in those concentric circles drawn around those locations, can you speak to that for a second? Let me put it different way, it could be 10 miles away but if there are only 5 voters around it, that's really not convincing...."* The response to Board member Malcolm's inquiry was that Forsyth was an "urban county" and that *"it's not that few people live in any one part of it. It's pretty well populated throughout."* See Exhibit 5.

### **III. GEOGRAPHIC CONSIDERATIONS<sup>9</sup>**

According to the US Census Bureau, Watauga County has a total landmass of 313 square miles. The Town of Boone is the county seat and is located almost squarely in the center of the county. The county's 20 voting precincts vary significantly in both geographic size and population (see Exhibit 8).

A closer look at individual Watauga precincts reveals geographic characteristics and details about individual demographic populations within the County's precincts (see Exhibit 9). In most but not all cases, the larger the Watauga precinct landmass, the fewer the number of registered voters. The smaller the precinct landmass, the greater the number of registered voters. Voters living most closely together tend to live in locations urban or suburban<sup>10</sup> to Watauga's municipalities.

The substantial majority of Watauga County's registered voters reside in urban or suburban precincts. Generally speaking, of the County's 41,902 registered voters, 69% (28,840 voters) are urban/suburban to the Towns of Boone, Blowing Rock, and Beech Mountain.<sup>11</sup> Thirty-one percent (31%) of Watauga County voters (13,062 voters) live in rural locations.<sup>12</sup>

#### **A. Geography: The Majority Plan**

##### **1. The Deficient Geography of the Majority Plan**

The Watauga Majority Plan relies solely on rudimentary geography as proof that its one-stop proposal is sound and offers all Watauga voters an equal chance to cast a one-stop ballot. According to Board member Aceto, *"the reason behind his proposal was the five sites he selected are geographically centered"<sup>13</sup> throughout the county.*<sup>14</sup>

<sup>9</sup> Data for this section comes from the 2014 North Carolina State Voter file, from the Watauga County Board of Elections, from current US Census data, and from GIS mapping services.

<sup>10</sup> "Suburban" used in this document to mean "a: an outlying part of a city or town; b: a smaller community adjacent to a city." Merriam-Webster.

<sup>11</sup> Includes the following precincts: Boone 1, Boone 2, Boone 3, Brushy Fork, Blue Ridge, New River 1, New River 2, New River 3, Blowing Rock, and Beech Mountain.

<sup>12</sup> "Rural" used in this document to mean "of or relating to the country and the people who live there instead of the city." (Merriam-Webster). Includes in this instance the following precincts: Watauga, Meat Camp, Cove Creek, Stony Fork, Laurel Creek, Beaver Dam, Shawneehaw, Elk, Bald Mountain, and North Fork.

<sup>13</sup> Definition of Centered: "equidistant from all bordering or adjacent areas" Dictionary.com.

<sup>14</sup> "Board of Elections votes 2-1 on early voting sites," The Watauga Democrat, March 6, 2014. See Exhibit 10.

In an attempt to illustrate “*geographically centered*” one-stop sites, Mr. Aceto identified all his preferred one-stop locations, and then simply drew large, equally-sized concentric circles centered out from each one-stop site (see Exhibit 11). In order to accommodate his equally-sized circles, Mr. Aceto was subsequently forced to include significant portions of his circles into other counties for three of his proposed five sites. Two of Mr. Aceto’s proposed sites fall so close to the Watauga County border, in fact, that a full third of these circles extend into Caldwell and Wilkes counties. Meanwhile, other areas of Watauga County are left high and dry without any circles at all.

The Majority Plan thusly asserts that all voters living within any given circle will drive to the location the Majority Plan has devised for them in the center of that circle. This assertion completely ignores the populations within that radius, or that voters drive on roads and will seek the quickest and easiest way to an early voting location, factors of absolute importance when determining the service area of any particular one-stop location.

In short, the Majority Plan’s “***Equally-Sized Concentric Circles***” methodology is **flawed and meaningless** because:

- It ignores the fact that voters must use roads to access one-stop locations.
- It assumes a perfect interconnectivity between precincts and neighborhoods that does not exist.
- It assumes an equal population density across the county which does not exist.

## **2. The Actual Geographic Consequences of the Majority Plan**

Consideration of geography involves more than just a superficial contemplation of circled landmass.<sup>15</sup>

In order to accurately determine which voters would truly likely use each of the Majority Plan’s proposed one-stop sites, we used all available data to perform a “*service area analysis*,” an analysis that employs a roads network to determine which early voting site is geographically closest and is most convenient to each Watauga voter’s residence via road travel:<sup>16</sup>

---

<sup>15</sup> Definition of Geography: “*the study of the physical features of the earth and its atmosphere, and of human activity as it affects and is affected by these, including the distribution of populations and resources, land use, and industries.*” Dictionary.com.

<sup>16</sup> Methodology: Using February 2014 State Board of Elections data, we geocoded each Watauga County voter to obtain that voter’s latitude and longitude. We then used Watauga County GIS data to determine the precinct boundaries, road shapefiles, and other geographic Watauga County boundaries. We then mapped voters, roads, and precinct boundaries into our GIS program to create a dataset that provided a model of the connectivity of the

After completing the analysis, we were able to pinpoint which voters and how many (*population density*) reside geographically closest to each of Mr. Aceto's one-stop sites based on the most convenient and fastest road travel that takes them to those sites. The end result establishes Mr. Aceto's *actual* one-stop location "service areas," based on science instead of circles, as outlined in red on Exhibit 12 and as explained below:

**MAJORITY PLAN SITE #1: The Administration Building:** The Administration Building will serve as the county's primary one-stop voting location under the Majority Plan. **The Administration Building is sited to serve 25,179 Watauga County voters (60% of all Watauga County voters) under the Majority Plan.**

**MAJORITY PLAN SITE #2: Deep Gap Fire Department:** The Deep Gap Fire Department is sited to serve **3,095 Watauga County voters (7% of all Watauga County voters)** under the Majority Plan.

**MAJORITY PLAN SITE #3: Western Watauga Community Center:** The Western Watauga Community Center is sited to serve **6,847 Watauga County voters (16% of all Watauga County voters)** under the Majority Plan.

**MAJORITY PLAN SITE #4: Blowing Rock Town Hall:** Blowing Rock Town Hall is sited to serve **3,559 Watauga County voters (9% of all Watauga County voters)** under the Majority Plan.

**MAJORITY PLAN SITE #5: Meat Camp Fire Department:** Meat Camp Fire Department is sited to serve **3,222 Watauga County voters (8% of all Watauga County voters)** under the Majority Plan.

It is important to note that the foregoing analysis, while using the best data available, assumes each voter will utilize the location nearest to where s/he *resides*. While voters within Mr. Aceto's Administration Building site circle are unlikely to travel to one of the other four circled sites to cast an early ballot, voters living within the other four circles are highly likely to travel to the Administration Building site to vote. This is because 8 of the top 10 largest employers in Watauga County are located within or suburban to the Town of Boone (see Exhibit 13).<sup>17</sup> And **working** Watauga voters, regardless of which of

---

road system in Watauga County. After geocoding and mapping the five Majority Plan's proposed one-stop locations, we performed a "service area analysis" that uses the roads network to determine which early voting location is geographically closest to each voter's residence.

<sup>17</sup> "County Profile" Watauga County 2013, January 2014, Thrive in North Carolina, US Census Data. See Exhibit 13.



Mr. Aceto's circles they live in, will probably find themselves geographically closer to the Majority Plan's single Town of Boone one-stop location during work days.<sup>18</sup>

### **3. The Majority Plan Ignores Rural Voters' Preferences for One-Stop Locations**

When one-stop locations more geographically convenient to Watauga voters have been offered in past years, many rural voters still preferred the ASU Student Union and other downtown locations to one-stop locations offered closer to their residences. This is because most employed voters work in Boone and many work at ASU, Watauga County's top employer.<sup>19</sup> Since hours of early voting are primarily only convenient to working voters during weekdays, a one-stop location near their places of work is critical.

#### **For example:**

1. The former Watauga County Board of Elections included an early voting site at the Foscoe Fire Department for the 2012 General Presidential Election in response to citizen requests. While voters living in the Watauga precinct (where the Fire Department is located) cast 1,183 total one-stop ballots that year, only 36% of the voters who lived in the Watauga precinct cast their one-stop ballots at their precinct's early voting site. Instead, almost two-thirds of that precinct's voters cast their ballots at one of two one-stop locations in the Town of Boone.

2. In 2008, the Watauga County Board of Elections offered an early voting site at the Western Watauga Community Center for the General Presidential Election. While voters living in the Cove Creek precinct (where the Community Center is located) cast 804 total one-stop ballots that year, only 29% of the voters who lived in the Cove Creek precinct cast their one-stop ballots at their precinct's early voting site. Instead, over 70% of Cove Creek's precinct voters cast their ballots at one of four one-stop locations in the Town of Boone.

### **4. The Majority Plan Ignores Past Primary Turnout**

Consideration of past or predicted voter turnout is not a matter mandated in North Carolina Statute for consideration in deciding one-stop locations. Yet, in the past, my fellow Board members, and the State Board, have insisted that I compare the turnout of

<sup>18</sup> The Majority Plan offers no before or after working hours at any of its five proposed one-stop locations.

<sup>19</sup> ASU employs 2,531 full time personnel, 428 part time personnel, and has an enrollment of 17,222 students. "Appalachian State University Economic and Tax Revenue Impacts FY 2010," Center for Economic Research & Policy Analysis at Appalachian State University, October 2011. See Exhibit 14.

apples-to-apples past elections and apply those turnout estimates to a proposed One-Stop Implementation Plan.

My fellow Watauga Board members' traditional dog-eared position is that the County should not go to the expense and staffing requirements (*"the waste"*) of additional satellite early voting locations where historically voter turnout is low for any similar election. This was, in fact, their excuse (and the State Board's primary reasoning) for eliminating two satellite one-stop sites for the Town of Boone 2013 municipal elections (see Exhibit 7).

Turnout for the 2010 Watauga County primary was low (1,482 voters). Even so, 56% of total one-stop ballots cast in the 2010 Watauga primary elections were cast by voters who reside geographically closest to the Administration Building under the Majority Plan:

- 115 voters (*8% of all voters who cast one-stop ballots*) who reside closest to the Majority Plan's Blowing Rock site cast votes in the 2010 Watauga primary elections.
- 302 voters (*20% of all voters who cast one-stop ballots*) who reside closest to the Majority Plan's Western Watauga Community Center site cast votes in the 2010 Watauga primary elections.
- 97 voters (*7% of all voters who cast one-stop ballots*) who reside closest to the Majority Plan's Deep Gap Fire Department site cast votes in the 2010 Watauga primary elections.
- 132 (*9% of all voters who cast one-stop ballots*) voters who reside closest to the Majority Plan's Meat Camp Fire Department site cast votes in the 2010 Watauga primary elections.
- **836 voters (*56% of all voters who cast one-stop ballots*) who reside closest to the Majority Plan's Administration Building site cast votes in the 2010 Watauga primary elections.**

Using historic primary turnout numbers to decide one-stop locations for the 2014 Watauga primary elections suggests no need for any satellite one-stop sites at all.

It is, of course, possible that more people might cast one-stop ballots in this year's primaries, but both the local and State Board refused to allow any anticipated projection of turnout to factor into their decisions regarding The Town of Boone's municipal elections last year. Besides, even if we choose to assume higher turnout this year, we would need to apply it across the board. Instead, the Majority Plan assumes lower

turnout at its Administration Building site while simultaneously assuming higher turnout at its four satellite sites to justify site locations.<sup>20</sup>

Regardless, it's different this time, say my fellow Board members. Turnout shouldn't matter this year because we have 272 state-mandated early voting hours we must provide regardless of turnout.

It is true that Watauga County must comply with new state law that requires at least 272 Watauga early voting hours into no more than 10 days. What matters most, however, is not so much that we achieve the new hours required by state law, but rather how and where we achieve those hours to most benefit the voters and to promote participation in our democracy.

It is hypocritical that the Majority Plan chooses to apply selectively its "low turnout rules" this year. And it is telling that the Majority Plan assumes low turnout *only* in the early voting locations the Republican members of my Board have been looking to cull for partisan advantage long before the state's new laws took effect.

#### **4. The Majority Plan is Calculated to Suppress Early Voting Opportunities for Urban/Suburban Town of Boone Voters**

Even though 63% of all Watauga County voters are urban or suburban to the Town of Boone,<sup>21</sup> the proposed Majority Plan eliminates two of the three established in-town Boone early voting sites.<sup>22</sup>

All Watauga County Board of Elections members agree that traffic in the Town of Boone is difficult, congested, and at times unbearable. To ask a minimum of 60%<sup>23</sup> of Watauga County voters to cast one-stop ballots at a single supersized early voting location in the Town of Boone with hard-to-find parking and congested travel is unreasonable, unnecessary, unfair, and discriminatory.

---

<sup>20</sup> 836 voters who reside closest to the Majority Plan's Administration Building site cast one-stop ballots in the 2010 Watauga primary elections; 646 voters who reside closest to the Majority Plan's satellite voting locations **collectively** cast one-stop ballots in the 2010 Watauga primary elections.

<sup>21</sup> Includes the following precincts: Boone 1, Boone 2, Boone 3, Brushy Fork, Blue Ridge, New River 1, New River 2, and New River 3. See Exhibit 9.

<sup>22</sup> The Majority Plan eliminates the Boone Town Council Chambers and the ASU Student Union early-voting sites.

<sup>23</sup> Not counting rural voters who work in the Town of Boone and who will likely also vote at the Administration Building site.

Yet the Majority Plan's Administration Building one-stop location is the nearest geographic one-stop site to the residences of:

- 25,179 registered voters (60% of all Watauga County voters), and
- 100% of the Town of Boone's urban/suburban voters.

**The State Board has already set established precedent for refusing such packing of voters into a similar supersized voting location last year for the Town of Boone 2013 municipal elections.**

*"The vote (to deny the Super Precinct) comes after Kim Strach, executive director of the N.C. State Board of Elections, expressed concern about a previous plan supported by Eggers and Aceto that would have established one polling place for what would have been North Carolina's third-largest voting precinct, while eliminating a polling place at ASU and at the county government building."<sup>24</sup>*

The Majority's One-Stop Plan for the 2014 primary elections offers a strikingly similar proposal.

### **B. Geography: My Plan**

It is important that the Watauga County Board of Elections demonstrate a sense of fair play for all Watauga voters in siting one-stop locations.

So why eliminate two of the three early voting locations historically used by the majority of all Watauga County voters (*and most convenient to Watauga working voters*) when we don't have to?

**As you can see from my finalized geographic map (see Exhibit 16), Watauga County can keep all three one-stop locations in the Town of Boone; accommodate all but one of the Majority Plan's proposed satellite one-stop sites, locate sites in a geographically reliable and non-discriminatory manner, and even save money<sup>25</sup> in the process:**

---

<sup>24</sup> "Watauga Elections Board Votes to Restore Voting Precincts," The Winston-Salem Journal, September 4, 2013. See Exhibit 15.

<sup>25</sup> See IV. PROPOSED ONE-STOP PLANS COSTS COMPARED, B. Costs: My Plan, of this document.

MY PLAN SITE #1: The Watauga County Board of Elections: The Watauga County Board of Elections location will serve as the county's primary one-stop voting location. The Watauga County Board of Elections is sited to serve a minimum of **8,907 Watauga County voters (21% of all Watauga County voters)** under my plan. The 8,907 voters calculated to cast ballots at this site is a minimum because it does not include voters who live in rural areas of the county but who work in the Town of Boone and would also choose this site to cast one-stop ballots.

MY PLAN SITE #2: Boone Town Council Chambers: The Boone Town Council Chambers is sited to serve **7,462 Watauga County voters (18% of all Watauga County voters)** under my Plan. The 7,462 voters calculated to cast ballots at this site is a minimum because it does not include voters who live in rural areas of the county but who work in the Town of Boone and would also choose this site to cast one-stop ballots.

MY PLAN SITE #3: ASU Student Union, "Linville Falls" Room: The ASU Student Union is sited to serve **12,780 Watauga County voters (31% of all Watauga County voters)** under my Plan. The 12,780 voters calculated to cast ballots at this site is a minimum because it does not include voters who live in rural areas of the county but who work at ASU and would likely choose this site to cast one-stop ballots.

MY PLAN SITE #4: Meat Camp Fire Department: Meat Camp Fire Department is sited to serve **2,823 Watauga County voters (7% of all Watauga County voters)** under my Plan.

MY PLAN SITE #5: Western Watauga Community Center: Western Watauga Community Center is sited to serve **6,866 Watauga County voters (16% of all Watauga County voters)** under my Plan.

MY PLAN SITE #6: Blowing Rock Town Hall: Blowing Rock Town Hall is sited to serve **3,064 Watauga County voters (7% of all Watauga County voters)** under my Plan.

### **III. PROPOSED ONE-STOP PLANS OPERATING HOURS COMPARED**

#### **A. Operating Hours: The Majority Plan**

The Majority Plan creates a single supersized one-stop site to accommodate a minimum of 60 percent of all Watauga County's voters as well as four satellite one-stop locations.

The Majority Plan establishes identical open hours for each of its five sites: 8AM-4PM for seven working days (*beginning April 24<sup>th</sup>*), and 8AM-1PM on Saturday, May 3<sup>rd</sup>. No before or after working hours are provided at any of the Plan's five sites. One Saturday is available for early voting at each site with limited hours. **And it is astonishing that the Majority Plan does not even make one-stop voting available during all the hours the Watauga County Board of Elections is open for business.**<sup>26</sup>

Each of the Majority Plan's five sites, regardless of the number of voters it is sited to serve, will be open for a total of 61 hours, for a total of 305 early voting hours countywide.

As you can see from Exhibit 17, The Majority Plan provides five to ten times the number operating hours/per voter at its satellite sites than it offers at its primary Administration Building site, even though the Administration Building site is sited to serve at least 60% of Watauga's voting population. This demonstrates the Majority Plan's poor use of time resources.

### **B. Operating Hours: My Plan**

My Plan creates one primary one-stop site and five satellite one-stop locations. It establishes before and after working hours, as well as Saturday voting at the primary site, and before and after working hours at each of the five satellite sites in order to accommodate working voters. My Plan establishes a total of 272 early voting hours countywide.

My primary site is the Watauga County Board of Elections. This site would be open weekdays from 7AM-6PM (*from Thursday, April 24th through Friday, May 2nd*) and open on Saturday, May 3rd from 8AM-1PM for a total of 82 open hours. Each of my Plan's five satellite one-stop locations will open from 10AM-6PM Monday, Wednesday and Friday (*from Monday, April 28th through Friday, May 2nd*), and from 7AM-2PM Tuesday and Thursday (*from Monday, April 28th through Friday, May 2nd*) for a total of 38 hours per satellite site.

As you can see from Exhibit 17, my Plan efficiently adjusts operating hours as effectively and evenly as possible between sites within the confines of new state law.<sup>27</sup>

---

<sup>26</sup> If a voter comes to the Watauga County Board of Elections to cast a one-stop ballot at 4:30PM, s/he will be turned away even though the Board of Elections is open for business.

<sup>27</sup> New North Carolina law requires that all satellite one-stop sites be open on the same days and for the same number of hours.

## **IV. PROPOSED ONE-STOP PLANS COSTS COMPARED**

### **A. Costs: The Majority Plan**

The State Board approved the contested Majority One-Stop Implementation Plan for the Watauga 2013 municipal elections. That Plan eliminated two of three one-stop voting locations based primarily on their expense (see Exhibit 7). As you can see from Exhibit 18, the Majority One-Stop Plan for Watauga's 2014 primary elections is more expensive than my proposed Plan, includes one less satellite early voting location, and spends more money where there are fewer voters<sup>28</sup>.

MAJORITY PLAN SITE #1: Administrative Building Site: sited to support a minimum of 25,179 Watauga County voters; 6 staff members<sup>29</sup>; 61 hours @\$9.50 per hour/per staff member; **\$3,477 total cost; 14 cents per voter.**

MAJORITY PLAN SITE #2: Deep Gap Fire Department: sited to support a maximum of 3,095 Watauga County voters; 3 staff members; 61 hours @\$9.50 per hour/per staff member; **\$1,738.50 total cost; 56 cents per voter.**

MAJORITY PLAN SITE #3: Western Watauga Community Center: sited to support a maximum of 6,847 Watauga County voters; 3 staff members; 61 hours @\$9.50 per hour/per staff member; **\$1,738.50 total cost; 25 cents per voter.**

MAJORITY PLAN SITE #4: Blowing Rock Town Hall: sited to support a maximum of 5,559 Watauga County voters; 3 staff members; 61 hours @\$9.50 per hour/per staff member; **\$1,738.50 total cost; 31 cents per voter.**

MAJORITY PLAN SITE #5: Meat Camp Fire Department: sited to support a maximum of 3,222 Watauga County voters; 3 staff members; 61 hours @\$9.50 per hour/per staff member; **\$1,738.50 total cost; 54 cents per voter.**

**Total cost of the Majority Plan = \$10,431**

---

<sup>28</sup> Watauga County Board of Elections Director Jane Anne Hodges provided the staffing and financial needs associated with this analysis.

<sup>29</sup> Director Hodges says that utilization of the Administration Building as a primary one-stop site under the Majority Plan will require hiring two additional poll workers to properly staff. Director Hodges said that each staff member employed for the 2014 one-stop period will be paid \$9.50 per hour.

## **B. Costs: My Plan**

Under my Plan, the Watauga County Board of Elections Executive Director would utilize existing staff to serve voters choosing to vote early at the County Board of Elections office. This minimizes the need for additional salary costs to operate this site for early voting purposes.

As you can see from Exhibit 18, my Plan is less expensive than the proposed Majority Plan, includes one more satellite early voting location than the Majority Plan, and spends equal or less money where there are fewer voters:

MY PLAN SITE #1: Watauga County Board of Elections: sited to support a minimum of 8,907 Watauga County voters; 4 staff members; 82 hours @\$9.50 per hour/per staff member; **\$3,116 total cost; 35 cents per voter.**

MY PLAN SITE #2: Boone Town Council Chambers: sited to support 7,462 Watauga County voters; 3 staff members; 38 hours @\$9.50 per hour/per staff member; **\$1,083.00 total cost; 15 cents per voter.**

MY PLAN SITE #3: ASU Student Union: sited to support 12,780 Watauga County voters; 3 staff members; 38 hours @\$9.50 per hour/per staff member; **\$1,083.00 total cost; 8 cents per voter.**

MY PLAN SITE #4: Meat Camp Fire Department: sited to support 2,823 Watauga County voters; 3 staff members; 38 hours @\$9.50 per hour/per staff member; **\$1,083.00 total cost; 38 cents per voter.**

MY PLAN SITE #5: Western Watauga Community Center: sited to support a maximum of 6,866 Watauga County voters; 3 staff members; 38 hours @\$9.50 per hour/per staff member; **\$1,083.00 total cost; 16 cents per voter.**

MY PLAN SITE #6: Blowing Rock Town Hall: sited to support a maximum of 3,064 Watauga County voters; 3 staff members; 38 hours @\$9.50 per hour/per staff member; **\$1,083.00; 35 cents per voter.**

**Total cost of My Plan = \$8,531**

Additional costs for Watauga County's 2014 primary one-stop activity might be warranted if a plan provided for greater and more accurate coverage of the County's voting population, did not discriminate among population segments, and provided more convenient hours for early voting. But the Majority Plan accomplishes none of these



objectives. My Plan does accomplish all of these objectives and does so for almost **\$2,000 less than the Majority Plan.**

#### **V. DEMOGRAPHIC CONSIDERATIONS: AGE**<sup>30</sup>

Of the 41,902 registered voters in Watauga County, 41% are between the ages of 18-29 (17,321 voters). **Voters in the 18-29 age group, in fact, constitute the largest percentage of voters countywide**, and 65% of these young voters live in the Boone 2 and Boone 3 (ASU Dorm) precincts.

Furthermore, voters between the ages of 18-29 constitute an impressive 38% of all Watauga individuals who have ever cast a one-stop ballot<sup>31</sup> in Watauga County since one-stop voting became available to Watauga voters in 2008.

While I have previously presented and outlined to this Board the unique voting challenges for this age group (*and ASU Boone 2 and Boone 3 voters in particular*), and while my fellow Board members have disputed a few of my assertions, **the following geographic/demographic particulars about these voters remain unchallenged:**

- (1) 17,222 ASU students work, study, and/or live on ASU's campus<sup>32</sup>
- (2) Twelve percent (12%) of all Watauga registered voters live in ASU dormitories in the Boone 2 and Boone 3 precincts.
- (3) Most 18-21 year olds living, studying, and/or working on ASU's campus do not have access to cars during the week. If they do, the vehicles are parked at locations remote to campus.

It is in part because of unique demographic/geographic challenges for younger voters (*especially ASU student voters who live in dorms*) that in 2008 the Watauga County Board of Elections opened an early voting site in ASU's student Union. The ASU Student Union site has been included as an early voting site in every General and Primary election since.

Since the ASU Student Union polling location first opened as a one-stop site in the 2008 primary, 7,617 *individual* voters have cast one-stop **primary** ballots<sup>33</sup> there. **And while**

---

<sup>30</sup> Data for this section comes from the North Carolina State Voter file and the Watauga County Board of Elections.

<sup>31</sup> "Individual Voters": voters counted only once regardless of how many times they have voted.

<sup>32</sup> "Appalachian State University Economic and Tax Revenue Impacts FY 2010," Center for Economic Research & Policy Analysis at Appalachian State University, October 2011. See Exhibit 14.

the ASU Student Union early voting site is heavily patronized by student populations, it has also historically been used by one-stop primary voters from every single precinct in the county.<sup>34</sup>

It's no surprise that Watauga voters aged 18-29 demonstrate a clear and compelling preference for the ASU Student Union early voting location over all other early voting sites. Since the ASU Student Union early voting location was opened:

- 0% of voters aged 18-29 have cast early votes at the Cove Creek Community Center site
- 0% of voters aged 18-29 have cast early votes at the Boone Town Hall site
- .004% of voters aged 18-29 have cast early votes at the Foscoe Fire Department site
- .01% of voters aged 18-29 have cast early votes at the Agricultural Conference Center site
- 18% of voters aged 18-29 have cast early votes at the Board of Elections or the Administrative Building
- **82% of voters aged 18-29 have cast early votes at the ASU Student Union site**

Of those Watauga voters who are even younger (*between the ages of 18-21, who mainly live in ASU dorms, and who are a constitutionally protected class*), their preference for voting at the ASU Student Union is even more striking:

- 0% of voters aged 18-21 have cast early votes at the Cove Creek Community Center site
- 0% of voters aged 18-21 have cast early votes at the Boone Town Hall site
- .001% of voters aged 18-21 have cast early votes at the Foscoe Fire Department site
- 0% of voters aged 18-21 have cast early votes at the Agricultural Conference Center site
- 9% of voters aged 18-21 have cast early votes at the Board of Elections or Administrative Building
- **91% of voters aged 18-21 have cast early votes at the ASU Student Union site**

---

<sup>33</sup> Apples to apples: includes only votes cast by one-stop in *primary* elections from 2008-2012. Does not include general or municipal election numbers.

<sup>34</sup> From 2008-2012. Individual votes cast at ASU's Student Union (*does not count more than one vote per voter even if s/he has cast numerous votes over the years*): Bald Mountain: 22; Beaver Dam: 29; Beech Mountain: 4; Blowing Rock: 114; Blue Ridge: 280; Boone 1: 469; Boone 2: 1,759; Boone 3: 1,625; Brushy Fork: 812; Cove Creek: 63; Elk: 15; Laurel Creek: 41; Meat Camp: 110; New River 1: 722; New River 2: 644; New River 3: 641; North Fork: 16; Shawneehaw: 59; Stony Fork: 82; Watauga: 169.

Since the ASU Student Union early voting site launched, **37% of all Watauga voters who have cast early ballots have cast those ballots at ASU's Student Union.**<sup>35</sup>

- 83% of all voters who have cast ballots at the ASU Student Union site are between the ages of 18-29
- 45% of all voters who have cast ballots at the ASU Student Union live in the Boone 2 and Boone 3 precincts
- One third of the voters who have cast ballots at the ASU Student Union live in ASU dorms.

### **A. Age: The Majority Plan**

The Majority Plan for the 2014 Primary elections proposes to eliminate ASU's Student Union one-stop site. And as you can see in Exhibit 20, if that weren't problematic enough for young voters, the Majority Plan subsequently establishes as the closest geographical site for younger voters a supersized one-stop site where they will compete with a minimum of 60% of Watauga County early voters to cast ballots (if they can get there):

#### **MAJORITY PLAN SITE #1: Administrative Building Supersized Site:**

- sited to support a minimum of 25,179 one-stop voters
- sited to support 89% of all Watauga voters between the ages of 18-21
- **sited to support 84% of all Watauga voters between the ages of 18-29**

The Majority Plan simultaneously establishes 4 new one-stop voting sites, all of which are where younger voters do not live<sup>36</sup>; almost all of which younger voters are unfamiliar with; all of which are remote to ASU and the Town of Boone; all of which are in areas not served by public transportation; and all of which are in locations voters cannot access without a vehicle:

So... even though State law no longer allows voters to cast valid ballots out of precinct on Election Day ... and even though Boone 3 voters are therefore now required to hike to their remote Election Day voting location at the Agricultural Center along a busy road with no sidewalks and narrow (and caving) shoulders ... and even though the State has cut the early voting period in half ... and even though the State has eliminated same day registration ... and even though the local and state Boards of Election thus far refuse to allow an ASU early voting location ... and even though the local Board

<sup>35</sup> 20,425 individuals have cast one-stop ballots countywide from 2008-2012.

<sup>36</sup> **Collectively**, The Majority Plan's four satellite one-stop sites are located near the residences of only 16% of Watauga County voters aged 18-29.

eliminated an Election Day voting location in ASU's Student Union ... and even though ASU voters especially might not be able to make the trek to a single downtown supersized One-Stop voting location to compete with at least 60% of Watauga County voters to cast their one-stop ballots...

... Watauga's Board of Elections, the State Board of Elections, and the State Legislature continue to maintain that in spite of all evidence to the contrary, they are not working overtime to disenfranchise and suppress the votes of younger voters, especially college students between the ages of 18-21. After all, the Republican members of the Watauga County Board of Elections (and some members of the State Board)<sup>37</sup> have argued that younger voters, especially students at ASU, who want to vote early still have plenty of options: they can take public transport to a remote site; they can walk to a remote site; or they can vote absentee. Yet, none of these barriers is necessary, and there is no cost to remove them.

Fortunately for college students and other young voters, there are Constitutional protections for their voting rights:<sup>38</sup>

*The right of citizens of the United States, who are 18 years of age or older, to vote, shall not be denied or abridged<sup>39</sup> by the United States or any state on account of age.<sup>40</sup>*

State Board members have noted that college students are resourceful and that they can always apply for absentee ballots.<sup>41</sup> Watauga Board member Aceto stated at the March 5<sup>th</sup> Watauga Board meeting that *"the administration building would serve as an acceptable voting site for those who reside in Boone as well as the students of Appalachian because it is accessible on foot and via AppalCART."*<sup>42</sup>

---

<sup>37</sup> See Exhibit 7.

<sup>38</sup> *Symm v. United States*, 439 U.S. 1105 (1979).

<sup>39</sup> Definition of "abridged": *"to lessen the strength or effect of (something, such as a right)"* Merriam-Webster; "; *"to reduce or lessen in duration, scope, authority, etc.; diminish; curtail: to abridge a visit; to abridge one's freedom."* Dictionary.com

<sup>40</sup> The United States Constitution, 26th Amendment

<sup>41</sup> State Board Member Amoroso: *"I've got two of them (college students), and believe me, they are fairly resourceful when they need to be."* State Board Member Foley: *"I encourage students especially to vote absentee from their own dorm bed...."* See Exhibit 7.

<sup>42</sup> *"Campus Denied Early Voting Site," The Appalachian*, March 6, 2014. See Exhibit 19.

However, in 1978, in *United States v. The State of Texas*<sup>43</sup> (a decision upheld by the US Supreme Court in 1979), the Court warned that forcing young voters into such required resourcefulness was inconsistent with the Voting Rights Act and constitutionally questionable:

*Senate Report No. 26, 92nd Cong., 1st Sess. (1971), with reference to the 26th Amendment noted that: "... forcing young voters to undertake special burdens — obtaining absentee ballots, or traveling to one centralized location in each city, for example — in order to exercise their right to vote might well serve to dissuade them from participating in the election. This result and the election procedures that create it, are at least inconsistent with the purpose of the Voting Rights Act, which sought to encourage greater political participation on the part of the young; such segregation might even amount to a denial of their 14th Amendment right<sup>44</sup> to equal protection of the laws.*

The North Carolina Constitution likewise protects the rights of such voters:

It is well settled in North Carolina that *"the right to vote on equal terms is a fundamental right."*<sup>45</sup> The Equal Protection Clause of Article I, Section 19 of the State Constitution prohibits the State from denying any person the equal protection of the laws. Strict scrutiny applies *"when the classification impermissibly interferes with the exercise of a fundamental right or operates to the peculiar disadvantage of a suspect class."*<sup>46</sup> Under strict scrutiny, a challenged governmental action is unconstitutional if the State cannot establish that it is narrowly tailored to advance a compelling governmental interest.<sup>47</sup>

The Majority One-Stop Implementation Plan takes deliberate, calculated, and direct aim at young Watauga County voters, targeting them for discrimination in regards to voting opportunities and outright voter suppression. There is no rational basis for this

---

<sup>43</sup> *United States v. State of Texas*, 445 F.Supp. 1245 (S.D. Tex., 1978) (UPHELD BY THE US SUPREME COURT IN *SYMM v. U.S.* - 439 U.S. 1105 (1979)).

<sup>44</sup> **14<sup>th</sup> Amendment, Section 1:** "... No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the **equal protection of the laws.**"

<sup>45</sup> *Stephenson v. Bartlett*, 355 N.C. 354, 378, 562 S.E.2d 377, 393 (2002); see also *Preston*, 325 N.C. at 454, 385 S.E.2d at 481; *Texfi Indus., Inc.*, 301 N.C. at 12, 269 S.E.2d at 149.

<sup>46</sup> *White*, 308 N.C. at 766, 304 S.E.2d at 204; see also *Texfi Indus., Inc. v. City of Fayetteville*, 301 N.C. 1, 11, 269 S.E.2d 142, 149 (1980).

<sup>47</sup> *Northampton Cty. Drainage Dist. No. One v. Bailey*, 326 N.C. 742, 746, 392 S.E.2d 352, 355 (1990).

discrimination, none has been articulated by the majority on the Watauga Board of Elections, and such illegal discrimination should not be endorsed by this Board.

The Majority Plan is not only unfair and inequitable to young Watauga County voters, it is constitutionally untenable.

### **B. Age: My Plan**

My Plan recognizes that 41% of all Watauga County voters are between the ages of 18-29; that 65% of these young voters live in the Boone 2 and Boone 3 (ASU Dorm) precincts; and that *“forcing young voters to undertake special burdens”* to exercise their voting rights is discriminatory and unconstitutional. That’s why my Plan provides young Watauga County voters equal footing with other Watauga County voters (see Exhibit 20). And that’s why my Plan provides a one-stop voting location at the ASU Student Union:

#### **MY PLAN SITE #1: Board of Elections**

- sited to support a minimum of 8,907 one-stop voters
- sited to support 13% of Watauga voters between the ages of 18-21
- **sited to support 22% of Watauga voters between the ages of 18-29**

#### **MY PLAN SITE #2: Boone Town Council Chambers:**

- sited to support a minimum of 7,462 one-stop voters
- sited to support 8% of Watauga voters between the ages of 18-21
- **sited to support 15% of Watauga voters between the ages of 18-29**

#### **MY PLAN SITE #3: ASU Student Union:**

- sited to support a minimum of 12,780 one-stop voters
- sited to support 70% of Watauga voters between the ages of 18-21
- **sited to support 50% of Watauga voters between the ages of 18-29**

## **VI. DEMOGRAPHIC CONSIDERATIONS: RACE<sup>48</sup>**

While 94% of all Watauga County registered voters are Caucasian, the 2,126 non-white Watauga voters<sup>49</sup> are nonetheless afforded equal rights and non-discrimination under

<sup>48</sup> Data for this section comes from the North Carolina State Voter file and the Watauga County Board of Elections.

<sup>49</sup> Includes voters who identify as “African American,” “Hispanic,” “Native American,” and “Other.”

the Constitution as much as are larger numbers of non-whites in other counties across the state. Furthermore, Watauga voters of color are young: 71% of all non-white Watauga voters are between the ages of 18-29.

### **A. Race: The Majority Plan**

As you can see in Exhibit 21, the Majority Plan is visibly designed to suppress the voting opportunities of non-white voters in Watauga County:

MAJORITY PLAN SITE #1: The Administration Building: is sited to support a total of 1,808 registered non-white voters:

- 85% of all non-white Watauga voters reside in locations to be served by the Majority Plan's Administrative Building.
- 94% of all non-white Watauga County voters between the ages of 18-29 reside in locations to be served by the Majority Plan's Administrative Building.
- 40% of all non-white Watauga County voters live in the ASU campus Boone 2 and Boone 3 precincts alone.

The Majority Plan **simultaneously** establishes 4 new one-stop voting sites, all of which are where most non-white voters do not live<sup>50</sup>; all of which are in areas not served by public transportation; and all of which are in locations voters cannot access without a vehicle.

The Majority One-Stop Implementation Plan is not only unfair and inequitable to non-white Watauga County voters, it is constitutionally untenable.

### **B. Race: My Plan**

My Plan recognizes that Section 2 of the Voting Rights Act of 1965 prohibits voting practices or procedures that discriminate on the basis of race. That's why my Plan provides non-white Watauga County voters equal footing with other Watauga County voters (see Exhibit 21). And that's why my Plan provides a one-stop voting location at the ASU Student Union:

MY PLAN SITE #1: Board of Elections

- sited to serve a minimum of 8,907 one-stop voters

---

<sup>50</sup> **Collectively**, The Majority Plan's four satellite one-stop sites are located near the residences of only 11% of non-white Watauga County voters.

-- sited to serve **24% of Watauga County's non-white voters**

MY PLAN SITE #2: Boone Town Council Chambers:

-- sited to serve a minimum of 7,462 one-stop voters

-- sited to serve **15% of Watauga County's non-white voters**

MY PLAN SITE #3: ASU Student Union:

-- sited to serve a minimum of 12,780 one-stop voters

-- sited to serve **50% of Watauga County's non-white voters**

**VII. PARTISANSHIP CONSIDERATIONS:**<sup>51</sup>

Unaffiliated voters<sup>52</sup> constitute a plurality of registered voters in Watauga County (16,190 voters). Of Watauga's 41,902 registered voters, 28% are registered as Democrats; 33% are registered as Republicans; and 39% are registered as Unaffiliated voters. The majority of Watauga County's Unaffiliated voters are young. In fact, 55% percent of Watauga's Unaffiliated voters are between the ages of 18-29.

Since one-stop voting opportunities began in Watauga County in 2008, a total of 20,425 individual voters have cast one-stop ballots. Democrats cast 33% of the early ballots; Republicans cast 32% of the early ballots; and Unaffiliated voters cast 35% of the early ballots.

It is plainly evident that Republican and Democratic candidates win or lose elections in Watauga County based on Unaffiliated voter support (or lack thereof), and when Unaffiliated voters showed up at past Watauga County primary elections, 59% of them historically chose Democratic ballots.<sup>53</sup>

It is for this principal reason that the Majority Plan seeks to suppress the votes of Watauga County's Unaffiliated voters for the 2014 primary elections.

---

<sup>51</sup> Data for this section comes from the 2014 North Carolina State Voter file and the Watauga County Board of Elections.

<sup>52</sup> Includes Watauga County's 390 Libertarian voters.

<sup>53</sup> In Watauga County primaries from 2008-2012, Unaffiliated voters requested a total of 1,792 Democratic ballots vs 1,236 Republican ballots.



### **A. Partisanship: The Majority Plan**

The Majority Plan seeks to disenfranchise and suppress the votes of Unaffiliated voters for the upcoming Watauga primaries because Unaffiliated voters historically demonstrate a preference for Democratic candidates; because Unaffiliated voters are young; and because this year Watauga's "*non-partisan*" school board primaries are in reality very partisan and very heated.<sup>54</sup>

- 55% percent of Watauga's Unaffiliated voters are between the ages of 18-29.
- 59% of Watauga's Unaffiliated voters have historically favored Democratic ballots.
- 54% of Watauga's Unaffiliated voters favored Democratic ballots in Watauga's 2010 primary elections.
- 67% of Watauga's Unaffiliated voters reside in homes geographically channeled by the Majority into its supersized Administration one-stop location.
- 86% of Watauga's Unaffiliated voters between the ages of 18-29 are channeled by the Majority into its supersized Administration one-stop location.
- 91% of Watauga's Unaffiliated voters between the ages of 18-21 are channeled by the Majority into its supersized Administration one-stop location.

The Majority Plan seeks to reduce the voting opportunities of Democrats and Democratic-leaning Unaffiliated voters (1) by eliminating two of the three traditional in-town early voting sites most convenient to Democrats and Democratic-leaning Unaffiliated voters; (2) by stuffing the vast majority of Democrats and Democratic-leaning Unaffiliated voters into a single supersized one-stop voting location; and (3) by simultaneously creating 4 new one-stop voting locations that are remote to the vast majority of Democrats and Democratic-leaning Unaffiliated voters and that **all advantage Republican candidates:**

MAJORITY PLAN SITE #1: The Administration Building: sited to support a minimum of 60% of the early voting population (25,179 voters): 28% Democrats; **28% Republicans;** 44% Unaffiliated voters.

MAJORITY PLAN SITE #2: Deep Gap Fire Department: sited to support 7% of the early voting population (3,095 voters): 25% Democrats; **47% Republicans;** 28% Unaffiliated voters.

---

<sup>54</sup> Eight School Board candidates have filed for the Watauga 2014 elections. This year's primary will narrow candidates down to six for the general election. Candidates for Watauga County's School Board races were recruited by the Democratic and Republican parties, and each Party will seek and get out votes for their chosen candidates.

MAJORITY PLAN SITE #3: Western Watauga Community Center: sited to support 16% of the early voting population (6,847 voters): 29% Democrats; **40% Republicans**; 31% Unaffiliated voters.

MAJORITY PLAN SITE #4: Blowing Rock Town Hall: sited to support 9% of the early voting population (3,559 voters): 28% Democrats; **42% Republicans**; 30% Unaffiliated voters.

MAJORITY PLAN SITE #5: Meat Camp Fire Department: sited to support 8% of the early voting population (3,222 voters): 30% Democrats; **41% Republicans**; 29% Unaffiliated voters.

Both United States courts and North Carolina courts have ruled that specific voting populations cannot be isolated and targeted for discriminatory treatment of state voting laws and practices by virtue of how they vote. In the case of *Carrington v. Rash*<sup>55</sup>, (involving questions as to whether a state had a legitimate interest to “immunize its elections from the concentrated balloting of military personnel” and “protect its franchise from infiltration by transients”), the Court found:

***“Fencing out”<sup>56</sup> from the franchise a sector of the population because of the way they may vote is constitutionally impermissible. “The exercise of rights so vital to the maintenance of democratic institutions,”*** *Schneider v. New Jersey*, 308 U. S. 147, ***cannot constitutionally be obliterated because of a fear of the political views of a particular group of bona fide residents.”***

As can be clearly seen in Exhibit 22, the Majority Plan for the 2014 Watauga County primary elections deliberately “fences out” a targeted “sector of the population” of Watauga County voters and reduces their early voting opportunities because of their historic tendency to vote for Democratic Candidates. **The Chairwoman of the Watauga County Republican Party acknowledged this intent in her comment to a local newspaper immediately after the Majority Plan was adopted at our Board’s March 5<sup>th</sup> meeting: “Thank you for reversing the previous plan that favored urban Democrats,” Yates said.**<sup>57</sup>

<sup>55</sup> *Carrington v. Rash*, 380 U.S. 89, 85 S.Ct. 775, 13 L.Ed.2d 675 (1965).

<sup>56</sup> Definition of “Fencing Out”: “to separate by or as by a fence or fences (often followed by in, off, out, etc.): to fence off a corner of one’s yard; to fence out unwholesome influences.” Dictionary.com

<sup>57</sup> “No Early Voting on ASU Campus for May Primary, Watauga Election Board Decides in 2-1 Vote Wednesday,” The High Country Press, March 5, 2014. See Exhibit 3.

The Majority One-Stop Implementation Plan is not only intentionally unfair and inequitable to Democrats and Democratic-leaning voters, it is constitutionally untenable.

### **B. Partisanship: My Plan**

My Plan recognizes that courts have found it unconstitutional to “*fence out*” a targeted sector of voters and reduce their early voting opportunities because of how they vote. That’s why my Plan attempts to give Watauga voters of both political parties as well as Unaffiliated voters equal opportunity to cast an early ballot (see Exhibit 22). And that’s why my Plan provides a one-stop voting location at the ASU Student Union:

MY PLAN SITE #1: Watauga County Board of Elections: sited to support 21% of the early voting population (8,907 voters): 30% Democrats; 30% Republicans; **40% Unaffiliated voters**

MY PLAN SITE #2: Boone Town Council Chambers: sited to support 18% of the early voting population (7,462 voters): 28% Democrats; 35% Republicans; **37% Unaffiliated voters**

MY PLAN SITE #3: ASU Student Union: sited to support 31% of the early voting population (12,780 voters): 25% Democrats; 30% Republicans; **45% Unaffiliated voters**

MY PLAN SITE #4: Meat Camp Fire Department: sited to support 7% of the early voting population (2,823 voters): 30% Democrats; 40% Republicans; **30% Unaffiliated voters**

MY PLAN SITE #5: Western Watauga Community Center: sited to support 16% of the early voting population (6,866 voters): 29% Democrats; 40% Republicans; **31% Unaffiliated voters**

MY PLAN SITE #5: Blowing Rock Town Hall: sited to support 7% of the early voting population (3,064 voters): 28% Democrats; 43% Republicans; **29% Unaffiliated voters**

### **VIII. CONCLUSION:**

While in past communications with the State Board, my fellow Board members have maintained that they are only required to present a “*rational basis*” for their decisions,

and while the State Board has indicated it is hesitant to overturn a Majority County Board vote regardless of “*rational basis*”:

*“ . . . when we are reviewing statutes which deny some residents the right to vote, the general presumption of constitutionality afforded state statutes and the traditional approval given state classifications if the Court can conceive of a ‘rational basis’ for the distinctions made are not applicable. See Harper v. Virginia State Bd. of Elections, 383 U.S. 663, 670, 86 S.Ct. 1079, 1083, 16 L.Ed.2d 169 (1966). The presumption of constitutionality and the approval given ‘rational’ classifications in other types of enactments are based on an assumption that the institutions of state government are structured so as to represent fairly all the people. However, when the challenge to the statute is in effect a challenge of this basic assumption, the assumption can no longer serve as the basis for presuming constitutionality.”*<sup>58</sup>

The Majority One-Stop Implementation Plan for Watauga County does not apply equal and just treatment under the law and is, in fact, populated precisely to skirt the constitutional rights of targeted Watauga County voters for partisan advantage.

There is no rational basis except discriminatory intent to explain the Majority's Plan and, in any event, because they are interfering with a fundamental right, their plan should be evaluated using a “strict scrutiny” standard.

The United States and North Carolina Constitutions, along with the Voting Rights Act of 1965, affords all citizens the right to expect and demand fair and equal treatment under the law.

*“Since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, **any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.**”*<sup>59</sup>

I have confidence the State Board of Elections will review with “*meticulous scrutiny*” the Majority One-Stop Implementation Plan for the Watauga County 2014 primary elections, because I have no doubt that upon such review State Board members will see that the end result of the Majority Plan, should it be approved, is to disenfranchise and suppress the votes of the young, the votes of non-white Watauga County voters, and the votes of those who historically vote for Democratic candidates.

---

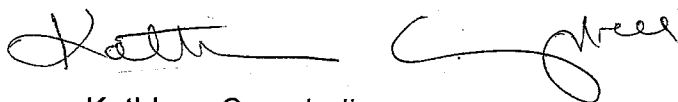
<sup>58</sup> Justice Warren: 395 U.S. at 627, 89 S.Ct. at 1890.

<sup>59</sup> *Reynolds v. Sims*, 377 U.S. 533, 562, 84 S.Ct. 1362, 1381, 12 L.Ed.2d 506 (1964).

**My Plan, like the Majority Plan, argues in favor of offering rural Watauga County voters early voting opportunities in their communities. Where our plans differ is that while the Majority Plan is discriminatory, suppresses the votes of targeted voter segments, and is as a result unconstitutional, my Plan provides justifiable and equal early voting opportunities for all Watauga County voters.**

I welcome your questions and can be reached by phone at (828) 297-3570 or by email at kathleencampbell67@gmail.com.

Sincerely,



Kathleen Campbell  
Member of the Watauga County Board of Elections

CC: Attorney General Eric Holder, United States Department of Justice  
Attorney General Roy Cooper, North Carolina Department of Justice  
Southern Coalition for Social Justice  
American Civil Liberties Center  
North Carolina League of Women Voters  
North Carolina NAACP

#### **EXHIBITS:**

EXHIBIT 1: *"Elections Board Talks Early Voting,"* The Watauga Democrat, February 25, 2014.

EXHIBIT 2: Email from Watauga Board of Elections member Kathleen Campbell to Watauga Board of Elections Director Jane Anne Hodges, February 26, 2014.

EXHIBIT 3: *"No Early Voting on ASU Campus for May Primary, Watauga Election Board Decides in 2-1 Vote Wednesday,"* High Country Press, March 6, 2014.

EXHIBIT 4: Letter to North Carolina State Board of Elections Executive Director, Kim Strach, from Susan Campbell, Chairwoman of the Forsyth County Democratic Party, March 4, 2014.

EXHIBIT 5: Full transcript of the North Carolina State Board of Elections Teleconference meeting on Forsyth County's One-Stop Implementation Plan, March 6, 2014.

EXHIBIT 6: Full transcript of the North Carolina State Board of Elections Teleconference meeting on Guilford and Burke County One-Stop Implementation Plans, February 18, 2014.

EXHIBIT 7: Partial transcript of the North Carolina State Board of Elections hearing on Watauga County One-Stop Implementation Proposals, September 3, 2013.

EXHIBIT 8: Watauga County Board of Elections Precinct Map.

EXHIBIT 9: SNAPSHOT: Geographic, Demographic, and Partisanship of Individual Watauga County Precincts.

EXHIBIT 10: *"Board of Elections votes 2-1 on early voting sites,"* The Watauga Democrat, March 6, 2014.

EXHIBIT 11: Watauga County Election Board Member Aceto's Majority Plan Map.

EXHIBIT 12: Watauga County Election Board Member Aceto's Corrected Majority Plan Map.

EXHIBIT 13: *"County Profile: Watauga County 2013,"* Thrive in North Carolina, US Census Data, January 2014.

EXHIBIT 14: *"Appalachian State University Economic and Tax Revenue Impacts FY 2010,"* Center for Economic Research & Policy Analysis at Appalachian State University, October 2011.

EXHIBIT 15: *"Watauga Elections Board Votes to Restore Voting Precincts,"* The Winston-Salem Journal, September 4, 2013.

EXHIBIT 16: Watauga County Election Board Member Campbell's Minority Plan Map.

EXHIBIT 17: Comparison of Majority Plan and Minority Plan One-Stop Site Operating Hours/Per Voter.

EXHIBIT 18: Comparison of Majority Plan and Minority Plan One-Stop Site Costs/Per Voter.

EXHIBIT 19: *"Campus Denied Early Voting Site,"* The Appalachian, March 6, 2014.

EXHIBIT 20: Comparison of Majority Plan and Minority Plan One-Stop Voting Opportunities for Young Voters.

EXHIBIT 21: Comparison of Majority Plan and Minority Plan One-Stop Voting Opportunities for Non-White Voters.

EXHIBIT 22: Comparison of Majority Plan and Minority Plan One-Stop Voting Opportunities by Partisanship.