

**OFFICE OF THE CITY COUNCIL**

**RESEARCH DIVISION**

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**HYBRID VIRTUAL/IN-PERSON SPECIAL COMMITTEE ON REDISTRICTING**

**Meeting minutes**

 **April 22, 2021**

**5:00 p.m.**

**Location:** City Council Chamber and via Zoom application

**In attendance:** Council Members Garrett Dennis (Chair), Randy DeFoor, Reggie Gaffney, Randy White, Brenda Priestly Jackson; School Board Member Kelly Coker (via Zoom)

**Also:** Council Members Ju’Coby Pittman, Al Ferraro, Joyce Morgan (via Zoom), Michael Boylan (via Zoom); Jeff Clements and Yvonne Mitchell – Council Research Division; Paige Johnston – Office of General Counsel; Jerry Holland – Property Appraiser; Steve Cassada – Council Support Services

**Meeting Convened**: 5:03 p.m.

Chairman Dennis welcomed the group and the attendees introduced themselves for the record.

General Counsel Update

Paige Johnston reported that there is no further update on Census data availability since the last committee meeting. She distributed a draft policy document for the committee to consider regarding consolidated government subject matter expert relations with the general public as discussed at a previous meeting. The draft policy would provide that all public input and questions should be directed to the Redistricting Special Committee for discussion and potential referral to staff for appropriate action. The public would be encouraged to submit questions and comments directly to the Special Committee either in a noticed meeting or via the committee’s web site (<https://www.coj.net/city-council/standing-committees/redistricting-special-committee>) and email address (2021redistricting@coj.net). If desired, staff could generate a Frequently Asked Questions (FAQ) document for posting on the web site to address commonly asked questions about the process. A final proposed policy would call for a portion of each Special Committee meeting to be devoted to public input and questions. Chairman Dennis asked the committee members to review the proposal and discuss it for adoption as a formal policy at the next meeting. Mr. Dennis asked Ms. Johnston to circulate the draft document to all City Council and School Board members.

Florida Association of Counties Redistricting Presentation for County Commissioners

Chairman Dennis introduced Kurt Spitzer of KSA Consulting, the former Executive Director of the Florida Association of Counties, to give a presentation on redistricting that he previously gave to a meeting of the FAC membership. Mr. Spitzer covered the constitutional and legal background governing the redistricting process in Florida.

General guidelines for redistricting used in many jurisdictions include: 1) equality of district population (as near as reasonably practicable); 2) don’t dilute minority voting strength; 3) follow Census block boundaries; 4) follow significant physical boundaries; 5) districts must be contiguous; 6) districts should be as compact as possible; 7) preserve communities of interest; 8) political party affiliation may be taken into account. All of these individual criteria and guidelines must be balanced in concert one another using common sense, although population equality is mandated by the Florida Constitution, Florida Statutes, and court rulings. Three charter counties have independent citizen advisory bodies to opine on redistricting plans.

District population equality: absolute population equality is impossible, so it is best to attempt to keep deviation within 3% over or under the target population (total population, not registered voters). Exceeding a 10% total deviation spread from the most populous to the least populous district is a red flag for excessive variance. There are exceptions to the 10% deviation rule for justifiable reasons, i.e. to create a minority access district to prevent dilution of minority voting interests or to account for a future high-growth area to prevent a foreseeable large population disparity from occurring.

Don’t dilute minority voting strength: this can happen in several ways. “Packing” is the practice of concentrating minority population into one or a few districts in order to dilute their influence everywhere else. “Cracking” is the practice of spreading minority population widely across many districts in order to prevent concentration of minority voting influence in any district.

Use census blocks: they are the smallest census unit and drawing district boundaries that include blocks in their entirety makes for greater simplicity of calculation. Census information is presumed to be valid, but cities should look for anomalies that might be correctible with other valid information (errors can sometimes occur in any large data set). Don’t deviate from census data unless absolutely necessary.

Follow significant physical boundaries: this makes districts easier to understand for the public, and census blocks follow those major boundaries as well. Try to keep existing districts as intact as possible. Keep communities of interest and neighborhoods together. Try not to draw incumbents into the same district if they have additional terms left and could run for re-election. Avoid bizarre shapes which invite scrutiny and questions about the purpose of the shape. The U.S. Supreme Court has ruled (Shaw v. Reno, 1993) that race cannot be the sole or predominant factor when drawing districts. Use common sense.

Mr. Spitzer presented several case studies of Florida counties demonstrating the principles he discussed earlier. He said he foresees several possible challenges that may arise in the 2021 redistricting process: 1) whether to count or not to count prison population; 2) application of Florida’s Fair Districts constitutional amendment approved by the voters in 2010 (even though the amendment does not apply to city and county redistricting); 3) determining what is a “minority” for redistricting purposes; and 4) the delayed release of 2020 Census data due to the COVID pandemic.

Chairman Dennis noted that the Fair Districts constitutional amendment passed 10 years ago and asked how a local government could use those principles without adversely affecting minority populations. Mr. Spitzer said the Fair Districts amendment applied to Congressional districts and state legislative districts and does not apply to cities and counties. Local governments may voluntarily use those principles, but are not obliged to.

Mr. Spitzer said the question of what is a “minority” in the context of redistricting (i.e. can the white population be a minority in a majority African-American jurisdiction) was posed in a court case challenging redistricting in Quincy, FL. The court dismissed the case on technical grounds and did not answer the question.

Regarding the release of the census data, the current plan announced by the Census Bureau is for redistricting data to be released by the end of September 2021. Mr. Spitzer said the availability of good computer software now makes it easy to draw a multitude of districts – the hard part is building consensus around a plan among all the interested parties. The Florida Constitution requires that the process be done by the end of the year despite the lateness of the data availability, although that may not be the case in charter counties such as Jacksonville, where their charter might prevail. He said that counties that have lots of municipalities that collectively cover a majority of the county area could possibly use demographic data from the University of Florida’s Bureau of Economic and Business Research to get a head start on drawing districts, but that might not work for Jacksonville.

In response to a question from Council Member Gaffney about how the City’s pre-trial detention facility (which is in his district) is counted by the census and whether the detainees are part of his district population, Mr. Spitzer said they are, but a jail is different than a prison since the inmates come and go and aren’t permanent residents like prison inmates are. He didn’t know of any case law that specifically dealt with jail inmates rather than prison inmates. Mr. Gaffney asked Property Appraiser Jerry Holland, the special committee’s consolidated government subject matter expert, how the jail impacts his district’s population count. Mr. Holland said jail inmates do count toward the district’s population figure. Whether they have the right to vote or not doesn’t matter, since elected officials represent all people, not just voters. Council Member Priestly Jackson, a former criminal defense attorney, said that jail inmates (pre-trial or serving a sentence of less than a year) are counted for census purposes at their regular home address, not in the jail or prison farm if sentenced to less than a year.

Council Member Boylan asked Mr. Spitzer how the courts interpret the “common sense” test he mentioned earlier, and asked if it is possible that the validity of the census data could be challenged because of the deep divisions evident in the country at the moment. Mr. Spitzer said hasn’t heard of any legal challenges to the accuracy of the census since the courts ruled in 2020 on whether or not to include a question about immigration status. Mr. Holland agreed and said it seems that most of the challenges about who to count in the census were solved last year during the census process. He said that the “common sense” test amounts to using all of the factors that were recommended earlier that are defensible. Mr. Spitzer said that challenges to the census data are always possible and would likely be filed after the data is released in September.

Council Member DeFoor asked for clarification of the earlier discussion about how BEBR data might be used to get a head start on the data analysis phase. Mr. Spitzer said very smart demographers could use other available data sources to adjust the 2010 Census data to estimate the current population, but that works better in counties (such as in South Florida) with lots of municipalities that cover most of the county, leaving very little unincorporated area. BEBR computes gross population numbers for a jurisdiction, but they are not localized to specific areas which you need to do redistricting. A county with lots of independent municipalities can use that city data to estimate population distribution across the county, whereas a county like Jacksonville would get a total number for the entire area excluding the Beaches cities and Baldwin, which is very non-location-specific. He said that once the census data is released, that data really needs to be used for redistricting purposes absent some very compelling reason to use something else.

Council Member Pittman asked how residents of transitional housing are counted in the census. Mr. Holland said the census tries to count every person in the country as of census day, even those who don’t have a permanent address. They self-report some address that they consider to be their home. The census is always a snapshot of one single moment in time. Jacksonville’s district populations are large enough that things like the jail or transitional housing probably aren’t a huge part of the population and wouldn’t affect the overall district numbers very much.

Chairman Dennis said that everyone wants fair districts, and asked if there are there any local jurisdictions in Florida that chose to voluntarily adopt the state’s Fair Districts standards for localities for their redistricting. Mr. Spitzer said he didn’t know of any that adopted them, but the amendment came along just after the last redistricting window so this would be the first time that cities and counties would have the opportunity to use those principles if they so choose. The common sense rules shared earlier generally reflect Fair Districts standards. Mr. Dennis asked if the Fair Districts principles would inevitably dilute minority representation interests. Mr. Spitzer reiterated that the best method for redistricting is to deal with the absolutes required by the law (equal population, contiguity) and then use the common sense rationales to do the best job you can with the rest. Be open and transparent and take public input seriously.

Mr. Dennis asked that the Spitzer presentation be sent via email to the committee members.

Consolidated Government Expert Update

Property Appraiser Jerry Holland said that Mr. Spitzer’s presentation reinforced what the committee has heard from all its experts thus far. What preliminary data is available seems to show that there won’t be a need for any substantial changes to the current districts – just some adjusting around the edges to equalize population. In past redistricting cycles there was a need for substantial changes because Jacksonville’s population had shifted locations dramatically over the previous decade. He recommended against drawing maps before the census data is available because it could cause needless anxiety in the public over something that may never come to pass.

Council Member Priestly Jackson asked what could be done if it appears that there is a substantial undercount in the census; how could the City challenge that error (i.e. the data shows a population decrease when we know we’ve grown). She asked the OGC attorneys to think about how to proceed should that occur.

Council Member Morgan asked what the Special Committee could be doing until the data is released to prepare. Mr. Holland said he’s gathered input from council members and school board members and has some idea about where growth has been occurring in the city, so he has ideas for how to proceed with revising districts when the census data becomes available. When the real data comes out he will meet again with council members and school board members to hone in on actual changes needed to meet actual data conditions. There should be time to act over a couple of months in October and November to draw districts before the end of the year, although they may not be completed and adopted in sufficient time to apply to the School Board election in 2022. Paige Johnston said the City Charter doesn’t have a deadline for completion of redistricting tied to a specific date (i.e. by the 31st of December) – it’s 8 months from whenever the data becomes available. An end-of-September data release would mean finishing the process by the end of May 2022. Mr. Boylan reiterated his concern that in an extremely partisan era where seemingly everything is subject to being taken to court, there will be legal challenges to the data when it is released and that will throw a wrench into the process.

Next meeting

May 27th at 9:00 a.m. A Florida League of Cities representative will be invited speak.

**Meeting adjourned:** 6:40 p.m.

Minutes: Jeff Clements, Research Division

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4.26.21 Posted 10:30 a.m.